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Council Offices,
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The Solicitors' Journal

VOL. LXXIX. **Saturday, May 25, 1935.** No. 21

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Current Topics.

New Scottish Solicitor-General.

As was generally expected would be the case, Mr. T. M. COOPER, K.C., who recently successfully contested West Edinburgh, has been appointed Solicitor-General for Scotland. As in England, so in Scotland, the Solicitor-General is the second law officer of the Crown, but despite this fact, and contrary to what might be thought to be the rule, his precedence in court is not immediately after the Lord Advocate but after the Dean of Faculty, that is, the head of the Faculty of Advocates for the time being. This point appears to be now accepted, although at one time it gave occasion to a good deal of controversy. In COCKBURN'S "Memorials of his Time" we read that at a meeting of the Faculty in 1826 for the election of a Dean, the then Solicitor-General, JOHN HOPE, said that although from courtesy he intended to yield professional precedency to the new Dean—JAMES MONCREIFF—as he had done to that gentleman's predecessor in title, he still claimed it as the right of the Solicitor-General. This brought up MONCREIFF with the words: "Gentlemen, I shall certainly answer that protest. For I do solemnly aver and assert that your Dean has precedence over His Majesty's Solicitor-General." As in the Court of Session there is no separate row sacred to the silks, the Lord Advocate and Solicitor-General sit within the bar, that is, at the clerks' table, the Lord Advocate on the right side and the Solicitor-General on the left side, while the Dean of Faculty sits in the centre of the counsel's row.

The Lord Chief Justice on King's Bench Business.

THE evidence given by the Lord Chief Justice before the Royal Commission on the Dispatch of Business of Common Law last Friday week, was mainly an *apologia* for the existing system. The appointment of an officer of high standing as "chief of staff" to the Lord Chief Justice to be solely and directly responsible to him for the distribution of work to the judges and the management of the lists would not, it was intimated, be of assistance in the organisation of King's Bench business. The work was already done by the Master of the Crown Office, who acted in close co-operation with the Senior Associate and in regular communication with the Senior Master. Mention was made of the committee of four King's Bench judges, and of the meeting of all the King's Bench judges respectively called to consider matters of varying gravity. In the early part of the period of thirteen and one-quarter years during which Lord HEWART has held his present position the final figure was, it was said, a very large one—well over 2,000 at the end of a week. During the last five or six years, notwithstanding the increasing claims of circuit and the wholly unexpected addition of divorce cases, that figure had gone down fairly regularly, and on the previous Tuesday it was under 700. The extension to other lists of the existing system of fixing dates for trial in the New Procedure and Commercial Lists would result in some of the judges having a good many unofficial holidays in the course of the week. In practice they were always fixing cases. Lord HEWART deprecated the contrast which seemed to be suggested between the importance of circuit work and London work. Geography, it was urged, had nothing to do with the gravity of a crime, and it was just as vital that a case should be well and thoroughly and promptly tried on circuit as in London. The circuit system was best left as it was. The learned Lord Chief Justice expressed the opinion that there were sufficient King's Bench judges, and intimated that he was opposed to further fusion or sub-division of the divisions of the Supreme Court, to any extension of county court jurisdiction and to the fixing of a retiring age for judges.

Common Law Business in the Provinces.

Mr. L. S. HOLMES, the hon. secretary of the Associated Provincial Law Societies gave evidence on the same day. He suggested that more time should be allowed for assizes in the big centres. This would obviate the rush at the end of the assizes resulting in a number of cases which might otherwise be tried out, being settled; and would lighten the London lists. Some reorganisation of circuits was advocated, and the widespread objections both on the part of provincial solicitors and litigants to cases being tried by Commissioners were alluded to. The judicial strength required both in London and the provinces should be based on the principle that every litigant should be able to rely on his case being tried within a reasonably short time of his being in a position to give notice of trial, but—it was thought—the fixing of dates of trial was an ideal impossible of attainment in practice. The Associated Societies favoured an extension of county court jurisdiction in common law cases to £300, but, if the resulting increased burden upon the county judges was thought to be too great, Mr. HOLMES suggested that the extension might be restricted to "running down" cases, and the money limit to £200. The resulting relief to the assizes was illustrated by figures relating to the last Liverpool Assize. The alteration of pleadings in "running down" cases—with a view to bringing out at an early date the points in issue—was advocated. Mr. HOLMES who, in addition to being hon. secretary of the

Associated Provincial Law Societies, is a member of the Council of The Law Society, a member of the committee of the Incorporated Law Society of Liverpool and chairman of the Commercial Law Committee of the Liverpool Chamber of Commerce, said that all the bodies he represented were opposed to the suggestion that Admiralty work should go to the King's Bench Division. The first three bodies named above approved the proposed transfer of probate work to the Chancery Division but disapproved of the proposed transfer of divorce to the King's Bench Division.

County Courts and Circuits.

On the previous Tuesday Mr. J. D. Cassels, K.C., M.P., whose evidence on other points has already been dealt with, intimated that he was opposed to any increase in the jurisdiction of county courts, but Mr. Linton Thorp, K.C., M.P., favoured the creation of a central county court with extensive jurisdiction—a purely trial court, not concerned with enforcing judgments. This would, it was urged, effect a considerable saving of time. A joint memorandum by the two witnesses last named on behalf of the South-Eastern Circuit indicated that the counties concerned desired to retain their place in the assize system, while Sir Reginald Coventry, K.C., urged, on behalf of the members of the Oxford Circuit, an extension rather than a diminution of circuit work in the district concerned, the trial of civil actions at every circuit town at the Autumn Assize and the giving of directions that, save in exceptional circumstances, the provisions of s. 14 of the Criminal Justice Act, 1925, should not be applied. Readers may be reminded that the section enables justices, with a view to expediting a trial or saving expense, to commit a prisoner for trial at Assizes or Quarter Sessions at other places than those to which they would ordinarily be committed. Last Tuesday, Mr. F. F. Smith, in the course of evidence given on behalf of the Association of County Court Registrars, of which he is president, urged—in furtherance of what was said to be practically a unanimous opinion in favour of the extension of county court jurisdiction—that the limit of £100 in county court proceedings founded on contract or tort be raised to £200, though no increase in the jurisdiction in equity or Admiralty matters was advocated. Relief of the circuit lists by the extension of the jurisdiction of Quarter Sessions was suggested in the course of evidence given on behalf of the Society of Clerks of the Peace of Counties by Sir Ernest Hart and Mr. Cecil Oakes. Offences which might be covered by this extended jurisdiction included certain classes of abduction and arson, bigamy, blasphemy, burglary (except in grave and difficult cases), forgery of a valuable security over £20, some classes of libel and perjury, personification of a voter and poaching by three or more armed persons. We doubt if the last-named offence is a suitable subject for transfer. The Society recognised that sufficient time had not elapsed since the extension of Quarter Sessions jurisdiction by the Criminal Justice Act, 1925, for any comprehensive scheme to be put forward. The time of circuit judges might well, it was suggested, be saved by requiring that in certain classes of offences committals should only be made to Quarter Sessions. The advantage of a paid chairman of Quarter Sessions with legal training was urged.

Veiws of Solicitors' Managing Clerks' Association.

A Statement submitted by Mr. B. R. Cecil on behalf of the Solicitors' Managing Clerks' Association, in the course of evidence given before the Royal Commission on the Dispatch of Business at Common Law on Tuesday, reiterated the recommendation that, in view of the present facilities for travelling, circuit business should, as a rule, be confined to large and convenient centres. A fixed number of judges (10–22) should remain in London to deal continuously throughout the term with work of the High Court and the Central Criminal Court. The remaining judges should be assigned to the various circuits and if the volume of assize work so required Commissioners should be appointed to deal with it. The present state of the lists was regarded as reasonably satisfactory, but the steps which had been taken to secure that result were not approved. The Commercial Court should be linked with Admiralty, cases now dealt with in the Crown Paper should be heard by the Court of Appeal and the Divorce Registry should be transferred to the new wing of the Law Courts, where the whole of the contentious business of the Probate and Divorce Division would be consolidated. Twenty judges should be sufficient to deal with business of Common Law. The Association did not favour any further devolution of work from the High Court to the county court or the fixing of a retiring age for judges of the Supreme Court of Judicature.

International Copyright.

We have received an announcement relating to the appointment by the President of the Board of Trade of a committee to consider the *Propositions avec exposés des motifs* prepared by the Belgian Government and the Bureau of the International Union for the Protection of Literary and Artistic Works for the consideration of the Brussels Conference, to be held in 1936, for revising the International Convention for the Protection of Literary and Artistic Works (last revised at Rome in 1928), together with the observations on the *Propositions* which have been received from various associations and interested bodies. Recommendations are also to be made by the committee as to the policy to be pursued by the government in regard to the *Propositions* and also in regard to the desirability or otherwise of making additional proposals concerning these or other matters relating to copyright, particularly in the light of the findings and recommendations of the Select Committee of the House of Commons on the Musical Copyright Bill, 1929, in regard to the public performance of musical works. Mr. Geoffrey H. Peto, M.P. (Chairman), Mr. S. O. Henn-Collins, K.C., Mr. N. Croom-Johnson, Mr. R. F. Lindley, and Mr. C. B. L. Tennyson have been appointed members of the committee. Communications relating to its work should be addressed to the Secretary, Mr. R. W. Luce, Industrial Property Department, Board of Trade, 25, Southampton-buildings, W.C.2.

Breach of Promise Actions.

The proposal by a Member of Parliament that in future in all actions for breach of promise of marriage the onus should be placed upon the complainant of proving not only that a breach has occurred but that it has inflicted some specific damage other than mere disappointment or loss of affection, is no new suggestion. As long ago as 1879, Mr. (afterwards Lord) Herschell carried a resolution in the House of Commons in favour of abolishing the action, " except in cases where actual pecuniary loss has been incurred by reason of the promise, the damages being limited to such pecuniary loss." That was over half a century ago, but the motion which then commended itself to the House has never been translated into an Act of Parliament, and, as we all know, the action still flourishes as a green bay tree. In most Continental countries the law on the subject is that to which the resolution of the House in 1879 would give effect, and we might well take a leaf out of our neighbour's book on this point. Certainly the question might be taken into consideration by the Law Revision Committee which has already done much for the modernisation of our law.

London Building Act: Advisory Committee's Report.

The final report of the advisory committee set up in 1931 under the chairmanship of Sir Robert Tasker to consider problems relating to future building in relation to the provisions of the London Building Act, 1930, was laid before the London County Council last Tuesday week. As originally constituted the committee contained a representative of the

Metropolitan Boroughs Standing Joint Committee, and of each of the following: the Royal Institute of British Architects, the Chartered Surveyors' Institution, the Institution of Civil Engineers, the Town Planning Institute, the London Master Builders' Association, the National Federation of Building Trades Operatives and the London Employers' Association; and there were eleven members of the London County Council. The report, which covers eighty-four foolscap pages and is published by the London County Council at 4s., suggests that the laws, bye-laws and rules relating to London building should be combined in one volume, properly indexed for easy reference, and that a new Bill should be promoted to replace the London Building Act, 1930, instead of the latter being amended. Greater elasticity of administration is advocated, as is also the creation of an advisory board to control the examination for district surveyorships to ensure that thoroughly qualified officers shall be available. It is recommended that where streets are 50 feet or more in width the present usual maximum height of 80 feet, plus two storeys in the roof, shall be increased to 100 feet, with additional storeys set back so as not to project beyond a line drawn from a point 100 feet from the roadway at an angle of 63½ degrees. In other cases the maximum height should, it is suggested, be double the width of the street. The undesirability of basements to which the present limitation in height has given rise is stressed from the difficulty of coping with outbreaks of fire, and it is said that there is evidence to show that the two prominent requirements in modern building—the safety factor and provision against fire—" have been allowed to exercise undue influence in the past so as to impede the fulfilment of the legitimate desire to replace existing obsolete structures by buildings of new design, of greater resistance to fire, and more stability." The committee advocates the system which prevails in the United States whereby railways and subways are linked up with buildings by underground ways, and the construction of parking places for motor-cars underground in the case of open squares, and of basement or sub-basement garages for buildings. The latter, it is urged, if of fire-proof construction and subject to certain restrictions and equipped with automatic sprinklers, need not give rise to apprehension on grounds of danger from fire. The report has now been referred to the appropriate committees.

Housing Bill: Report Stage.

Prior to its being reported, as amended by the Standing Committee, to the House of Commons on the 16th of the present month, the Housing Bill was re-committed to a Committee of the whole House in order, *inter alia*, to provide for an amendment enabling prosecutions to be instituted against local authorities by a person with the consent of the Attorney-General, and also providing that, instead of having to make a landlord take proceedings for possession, a local authority itself shall be entitled to go to a court of summary jurisdiction and obtain possession on behalf of the owner where a breach of the law in regard to overcrowding is taking place on the premises. The foregoing amendment might involve charges on the rates, and as such was out of order on the Report stage. Hence the re-committal. Among amendments agreed to on Report are the following. A new clause prevents landowners putting forward their own schemes of re-development after a clearance order or a compulsory purchase order has been confirmed by the Minister of Health, and provides that, where proposals are submitted in regard to premises comprised in a defined clearance area or proposed re-development area not yet confirmed by the Minister, local authorities shall have the option of themselves considering the owner's proposals or of referring them directly to the Minister. Clause 5, which empowers a local authority to authorise the temporary use of a house by persons in excess of the permitted number, has been amplified by a sub-clause enabling an authority to take into consideration a seasonable increase of population in its district. Another amendment provides that a local authority which has bought land not directly for the purpose of building houses may exchange it for other land where that is convenient. An amendment moved by the Minister of Health relates to the conditions under which a local authority can invest balances standing to the credit of the housing repairs or housing equalisation accounts in amplification of cl. 44. Further consideration of the Bill was adjourned on Monday last on the understanding that the Report stage should be concluded on the next available day by 6.30 p.m. and the Third Reading taken afterwards.

Gifts to the Unemployed.

The Unemployment Assistance Board has, as reported in *The Times* of 2nd May, given a ruling on the question of voluntary gifts to persons in receipt of unemployment allowances. The Board alludes to the necessity of taking into account an applicant's resources but "does not feel that it is required to follow a policy which says that a man receiving an allowance from the Board shall not receive anything from anyone else." This reply was given in response to an inquiry by the Society of Friends which is assisting its own members, and the Board does not wish to make it impossible for the Society to improve the position of such persons, and, if in such cases "a small supplementary grant for the purpose of meeting additional requirements" is made, "the sum so granted," the Board intimates, "would not be taken into account as requiring any reduction in the amount of the allowance."

Recent Decisions

Puddifoot v. *Evening Standard Co., Ltd.* (*The Times*, 16th and 17th May), was one of a number of actions against proprietors and publishers of newspapers in which the plaintiff obtained damages for alleged libels contained in reports of an inquiry held by the Public Control Committee of the London County Council relating to certain allegations brought against the plaintiff in connection with the conduct of her business as a manicurist. The result of the inquiry was wholly to clear her of the allegations brought forward and an application to revoke her licence was refused. Objection was taken to the reports, which stressed the allegations brought against the plaintiff and led to the breakdown of the business. Substantial damages (in all £1,500) were awarded against the *Evening Standard*, the *Daily Herald*, the *News of the World*, the *News Chronicle*, the *Daily Mail*, the *Daily Express* and *The Star*, while judgment was entered for one farthing against the *Evening News*.

In *Cotterill* v. *Penn* (reported at p. 383 of this issue) a Divisional Court held that one who shot a homing pigeon under a *bonâ fide* mistake was liable under s. 23 of the Larceny Act, 1861. That section, which provides on conviction for the payment of a sum not exceeding £2 over and above the value of the bird, contains the words "unlawfully and wilfully," but not "maliciously." The element of *mens rea* was not, it was held, required beyond the point that the facts must show an intention to do the particular act forbidden—in the present case, the shooting. At the time of the accident the defendant intended to protect his crops by shooting wood pigeons and magpies, and the fact that the bird was flying between him and the sun prevented him from distinguishing it from a wood pigeon.

The Court of Appeal varied the decision of Crossman, J., in *Fishenden* v. *Higgs & Hill Ltd.*, reported in our last issue (79 Sol. J. 364), by holding that this was a case in which the court, in the exercise of its discretion, might properly award damages in lieu of an injunction in respect of the actionable nuisance caused by obstruction of light to the plaintiff's rooms by the erection of a block of flats. The injunctions were discharged and an inquiry as to damages ordered. Leave to appeal was refused to both parties.

Trespass to Land and the Public Authorities Protection Act, 1893.

By s. 1 of the Public Authorities Protection Act, 1893, it is provided—

> "Where after the commencement of this Act any action, prosecution, or other proceeding is commenced in the United Kingdom against any person for any act done in pursuance, or execution, or intended execution of any Act of Parliament, or of any public duty or authority, or in respect of any alleged neglect or default in the execution of any such Act, duty or authority, the following provisions shall have effect:
>
> "(*a*) The action, prosecution, or proceeding shall not lie or be instituted unless it is commenced within six months after the act, neglect, or default complained of, or, in case of a continuance of injury or damage, within six months next after the ceasing thereof."

The Public Authorities Protection Act repealed a large number of previous enactments which had given protection to persons performing certain particular public duties, and re-enacted such protection in a generalised form. It is usually agreed, therefore, that authorities on the repealed enactments are *primâ facie* authorities on the Act itself.

Our present object is to consider the effect of the words "or in case of a continuance of injury or damage, within six months next after the ceasing thereof," in connection with cases of trespass to land, strictly so called. We are not here concerned with the very difficult problems arising out of the continuance of damage to land resulting from nuisances or similar torts.

Mr. Lightwood, in his "The Time Limit of Actions," appears to lay down the following propositions (1909 ed., pp. 398–399):—

(1) Time runs from the accrual of the cause of action;

(2) "When the cause of action depends on the happening of special damage, it accrues when the damage happens, and not at the time of the act which causes it: *Backhouse* v. *Bonomi*, 9 H.L.C. 503";

(3) "But in cases of trespass the cause of action accrues when the trespass is committed: *Wordsworth* v. *Harley*, 1 B. & Ad. 391; *cf. Coggins* v. *Bennett*, 2 C.P.D. 568."

These propositions in themselves are, of course, beyond criticism; indeed, they merely reiterate the well-known fact that in trespass proper the gist is the injury to possession, regardless of special damage, while in case the gist is special damage.

But, unfortunately, in its context the third proposition conveys a most misleading impression, which is confirmed by the even plainer statement in "Halsbury's Laws of England," Vol. 23, at p. 347, where the learned editors say: "The duration of a trespass for which an action could have been brought at the beginning of the trespass . . . is not a continuing cause of action." It is perfectly true that if an action were brought against a person protected by the Act for some trespass done once for all, such as merely walking over the plaintiff's land, time would run from the date of such act. But trespass is much more usually brought because a public authority has placed something, whether buildings, rubbish or drainpipes, on or in the plaintiff's land, *and left it there*. Such an act would be a continuing trespass, so long as the offending object was not removed, according to the ordinary rule enshrined in *Holmes* v. *Wilson*, 10 A. & E. 503; *Bowyer* v. *Cook*, 4 C.B. 236, and similar cases.

But Mr. Lightwood's statement, taken in conjunction with the statement in "Halsbury," implies that time would run from the original commission of the trespass, e.g., the commencement of the encroaching building, and not from the cessation of the trespass by such building's removal. In short, the plaintiff would, during the ordinary period of limitation under the general law, have the remedy of going himself and removing the obstruction, at the risk of a breach of the peace or proceedings under the Statutes of Forcible Entry: but so far as proceedings before the court are concerned, the defendant would in effect obtain a statutory title to the land the subject of the encroachment after a mere six months.

This unfortunate impression is heightened on a casual inspection of the cases to which Mr. Lightwood and the editors of "Halsbury's" refer. In connection with *Wordsworth* v. *Harley*, Mr. Lightwood says: "Where a surveyor of highways acting under the Highway Act, 13 Geo. 3, c. 78 wrongfully encroached upon private property by building a wall, time ran from the commencement of the building, since the separation of the land, and consequently the encroachment, was then complete." Such a statement is at least somewhat startling, and quite at variance with the rule in *Holmes* v. *Wilson*, namely, that where a trespass to land is continuous, a new cause of action accrues *de die in diem*.

Mr. Lightwood, however, omits to mention that *Wordsworth* v. *Harley* was an action brought by the *reversioner*: consequently it was not an action of trespass at all, but one of case, as is stated at the head of the report. As such, the decision is completely intelligible. For, as is well known, a plaintiff must have possession if he is to maintain trespass. A reversioner has not got possession, and under the old form of pleading was therefore remitted to an action of case. But the gist of case is damage, and the reversioner would have to prove damage to his reversion. But the damage to the reversion was the encroachment, which was complete when the first stones of the wall were in position: the maintaining of them was no further damage to the reversion, but merely an injury to the person in possession. It is therefore impossible to say that *Wordsworth* v. *Harley* lays down any rule applicable to trespass at all. Indeed, it might reasonably be argued that the plaintiff would have succeeded, had be deferred his action until his interest fell into possession, on the principle of *Holmes* v. *Wilson*. *Wordsworth* v. *Harley* is the only authority cited in "Halsbury" on this point, and no mention is made of the fact that the plaintiff was a reversioner.

Mr. Lightwood, however, also refers to *Coggins* v. *Bennett*, 2 C.P.D. 568, though he does not state the facts. But *Coggins* v. *Bennett* seems to have very little to do with the present point: for it was a proceeding to recover a statutory penalty against a private owner for encroaching on a highway. The encroachment was still subsisting, but the proceedings were brought out of time, if the time ran from the original making of the encroachment. It was held that the penalty was not recoverable: but it is submitted that a decision on a penal provision of a statute has little bearing on the common law action of trespass.

It is suggested, therefore, that there is no authority that lays down that the rule in *Holmes* v. *Wilson* does not apply to cases under the Public Authorities Protection Act. On the contrary, it has recently been decided by Crossman, J., in *Farrow* v. *Corporation of Gillingham* (at present unreported) that *Holmes* v. *Wilson does* apply. In that case the local authority, acting under the Housing Acts, had built houses which encroached slightly on the plaintiff's land. The building was begun at some date in 1933, and was completed by 28th May, 1934. The local authority refused to remove the encroachment, which is still in position. The writ was issued in the middle of December, 1934, more than six months after the buildings were finished, and therefore quite a year after they were begun. Crossman, J., held, however, that as the trespass was a continuing one the Public Authorities Protection Act did not apply, and granted the plaintiff a mandatory injunction for the removal of the encroachment.

It is respectfully submitted that his lordship's decision was correct, and must be taken to replace that view of the law which is implicit in Mr. Lightwood's statement, and is specifically laid down in "Halsbury." For in cases of trespass, strictly so called, there is a cause of action irrespective of

damage, and moreover a cause of action accrues *de die in diem* so long as the trespass is maintained. Consequently, although the trespass consisting in the original making of the encroachment ceases to be available as a cause of action in cases under the Public Authorities Protection Act after the lapse of six months, the action can still be maintained in respect of so many days as do not lie more remote than six months from the date of the writ. Moreover, Buckley, J., held in *Harrington* v. *Corporation of Derby* [1905] 1 Ch. 205, that if the action is maintainable at all, within the Public Authorities Protection Act, damages are recoverable back to the *ordinary* period of limitation, notwithstanding anything in the Public Authorities Protection Act. If, for example, an encroaching wall is begun on the 1st January, 1926, and maintained in position until 31st December, 1934, the plaintiff in an action brought before 30th June, 1935, can recover damages, not merely for the last six months, but the last six years, though not right back to 1st January, 1926.

Trespass to land is, naturally, much the commonest continuing tort; it is submitted, however, that the same principle will apply to continuing examples of any tort where it is necessary to prove only the injury, and not damage as well. For example, it has been held in *Bailey* v. *Warden*, 4 M. & S. 400, and *Hardy* v. *Ryle*, 9 B. & C. 603, that wrongful imprisonment was a new cause of action *de die in diem* so long as it continued, and that the special Limitation Acts there appealed to did not apply. Similarly, it is submitted that if a public authority continuously published a libel, by leaving the libellous object for all and sundry to see, as Madame Tussaud's had done in the well-known case of *Monson* v. *Tussaud's* [1894] 1 Q.B. 671, it would not avail them to say that the libel was first published more than six months before the issue of the writ.

The Prisons Report.

THE recently published Report of the Commissioners of Prisons and the Directors of Convict Prisons for the year 1933 contains much that is both interesting and instructive to all who are concerned with work in connection with criminals both before and after conviction. The statistical information comprised in the Report relates mainly to 1933, but information as to the main events of 1934 is also included.

The total number of receptions of men in 1933 decreased by 3,187, from 56,516 in 1932 to 53,329 in 1933. The chief decreases were in committals by civil process, 1,636, in sentences of imprisonment for indictable offences, 1,077, in committals on remand and for trial not followed by sentences of imprisonment, 1,036, and in sentences of Borstal detention 157. Of every 100 males received into prison, forty-seven were sentenced without the option of a fine, of whom twenty were sentenced for non-indictable offences and twenty-seven for indictable offences. The total number of receptions of women was 6,246, a fall of 190 when compared with the previous year's total. Of every 100 women received into prison, only thirty-seven were sentenced without the option of a fine, and of these sixteen were sentenced for non-indictable offences, and of the remaining twenty-one sentenced for indictable offences, many were convicted of minor offences.

Sentences were imposed by the Assizes and the Central Criminal Court on 1,944 men and on 132 women, and by Courts of Quarter Sessions on 3,311 men and on 132 women. Courts of Summary Jurisdiction on the other hand sentenced 28,950 men and 4,212 women.

In view of the recent Report of the Committee on Imprisonment for Debt, it is interesting to observe that 28 per cent. or 9,464 of the 34,205 receptions of men after conviction were imprisonments for non-payment of fines. Of the 4,476 receptions of women after conviction 48 per cent. or 2,151 were imprisonments for non-payment of fines. The total increase of imprisonments for non-payment of fines over 1932 was 371 (11,244 to 11,615), but this is a considerable decrease from the average for the years 1909 to 1913 (before the Criminal Justice Administration Act required time to be given for payment of fines), the average then being 83,187.

Under the heading "Nature of Offences," it is satisfactory to note that the number of convictions for the various types of larceny has fallen from 9,407 among men to 8,744 and from 1,059 among women to 999. On the other hand, the figures for drunkenness have risen from 3,973 among men to 4,701 and from 1,863 among women to 1930.

Short sentences predominated among both men and women. Of the men 52·5 per cent. were awarded sentences not exceeding one month, 23·3 per cent. were awarded sentences of between one and three months, while little more than 2 per cent. received sentences of more than eighteen months. Of the women 72·1 per cent. received sentences not exceeding one month, 15·3 per cent. received sentences of over one month and not more than three months, and 1·4 per cent. received sentences of over twelve months. The daily average population for 1933 was 12,180 men and 806 women as against 11,992 men and 811 women.

The greater incidence of recidivism among women than among men is stated to be due to the fact that a proportionately greater number of women are imprisoned for drunkenness. Of persons convicted of other offences than drunkenness 10,046 men and 673 women had one to five previous sentences, while 911 men and 139 women had had over twenty previous sentences. Of youths sentenced to imprisonment 66 per cent. had previously been proved guilty of offences, while only 34 per cent. had not been previously proved guilty of offences.

By far the greater number of offences committed by youths consisted of burglaries and larcenies. The number of youths found guilty of indictable offences, which had been steadily rising from 9,209 in 1929 to 12,663 in 1932, fell to 11,165 in 1933.

The report of the Medical Commissioner contains some interesting suggestions with regard to mentally affected prisoners. In spite of representations made in previous reports and in a Home Office circular of 20th April, 1934, isolated cases still occur where offenders are convicted and sentenced to imprisonment by courts of summary jurisdiction in spite of the fact that medical reports are before the court which state that the accused are certifiable under the Lunacy or Mental Deficiency Acts. It is also pointed out that neither the governor nor the medical officer of a prison has authority to submit a report on the state of mind of a convicted prisoner to anyone but the prison authorities. Justices, it appears, have sometimes called for such reports when a prisoner is about to be released, with a view to using the information should the prisoner appear before them again on a further charge. Such reports, it is stated, may be valueless, and even misleading, as insanity is not necessarily a permanent state. The suggestion is repeated that medical officers should be supplied, when necessary, with information bearing upon the mental condition of an accused person before reporting thereon to the court.

Courts of Summary Jurisdiction sometimes investigate the mental condition of a prisoner. The diagnosis under these circumstances, it is stated, is justified only in the most obvious cases, and these are few, as the examination is surrounded with numerous difficulties. At a recent conference of prison visitors it was felt that courts should be given the power, when a defendant is remanded on bail, to compel him to attend and undergo a medical examination at a clinic or elsewhere to determine his state of mind. It is suggested that it would be an advantage in police court cases if the law was amended so that the usual period of remand for eight days on bail or in custody should be extended to fourteen or twenty-one days, without producing the prisoner, if such extension appears to the court to be desirable on examination of a medical report.

In some of the smaller prisons it has often been found desirable to transfer prisoners to larger prisons in order to obtain the advantages of the greater facilities for scientific observation in the latter. It is suggested that if the law was amended as above it would be practicable to transfer remand cases also.

The law governing remands on bail or in custody is contained in the Indictable Offences Act, 1848, s. 21, and the Criminal Justice Administration Act, 1914, s. 20 (2), and the maximum period allowable is eight clear days. If the person remanded and the prosecutor consent in a case of bail, the time may be extended, and the time may also be extended where by reason of illness or accident the person remanded is unable to appear. It is stated that in the past five years, of 300 prisoners who were certified insane during the currency of their sentences 145 were probably insane on reception into prison, sixty-seven were certified to be insane during the first fourteen days after conviction and twenty-six more within twenty-one days after conviction. In view of these figures the valuable suggestion of the Medical Commissioner with regard to the law affecting remands should receive the careful attention of the Legislature.

Is *Schalit* v. *Nadler* Good Law?

THE great defect of our judge-made law and the value thereby attached to precedents is that, since the body of recorded decisions is so vast, one can never be quite sure that all the relevant decisions bearing upon a particular point have been brought to the attention of the court and adequately considered in their bearing upon the case then actually falling to be decided.

A striking example of this is afforded by the decision in *Schalit* v. *Joseph Nadler Ltd.* [1933] 2 K.B. 79. Although briefly dealt with before in these columns (*sub. nom.*, "*Cestui que Trust* versus Lessee," vol. 77, p. 347), it will be convenient here to recapitulate the facts. One Joseph Nadler was the sole shareholder in, and the director of, the defendant company, which desired to become tenant of certain premises in Shaftesbury-avenue. The landlords objecting to having a limited company as tenant, a lease was granted to Nadler, who at the same time executed a declaration to the effect that he held the premises in trust for the company absolutely, and that in the event of any sale or letting he would hold the net proceeds thereof in trust for the company. Later he granted an underlease of part of the premises to the plaintiff, who fell into arrears with his rent. A warrant of distress was issued on behalf of the defendant company, to whom it was stated that the rent was due, and a distress was levied in the company's name. In an action for illegal distress brought by the underlessee, the county court judge held that the defendant company had no right to distrain, and gave judgment for the plaintiff for £35.

Before the Divisional Court (Acton and Goddard, JJ.) it was argued for the appellant company that, by virtue of s. 141 (2) of the Law of Property Act 1925, the company, as *cestui que trust*, was a person entitled to recover, receive or enforce the rent of the premises, and that consequently the distress was valid. Section 141 (2)—which repeals and re-enacts without substantial alteration s. 10 of the Conveyancing Act, 1881—provides that any rent reserved by a lease "... shall be capable of being recovered, received, enforced and taken advantage of, by the person from time to time entitled, subject to the term, to the income of the whole or any part, as the case may require, of the land leased," and counsel for the appellant company referred to the note to that section in Wolstenholme and Cherry's "Conveyancing Statutes" (12th ed., p. 474), to the effect that it "gives to the 'person entitled to the income,' that is, *the beneficial owner, as well as the legal reversioner*, 'the right to recover, receive, enforce and take advantage of rent, lessee's covenants and conditions'."

The Divisional Court, in dismissing the appeal of the company, expressly dissented from this view expressed in "Wolstenholme and Cherry," and Goddard, J., said (at p. 83): "The right of the *cestui que trust* whose trustee has demised property subject to the trust is, not to the rent, but to an account from the trustee of the profits received from the demise. . . The *cestui que trust* has no right to demand that the actual bank notes received by the trustee shall be handed over to him or that a cheque for rent drawn to the trustee shall be indorsed over. What he can require is that the trustee shall account to him, after taking credit for any outgoings or other payments properly chargeable, for the profits received from the trust property."

This decision was not a startling one, and accorded with the generally accepted notion of the beneficiary's interest as being not *in rem* but *in personam*. It has, however, been criticised in a note in the *Law Quarterly Review* (April, 1934, p. 158), to which are appended the initials of one of the joint editors of "Wolstenholme and Cherry," and therein the point is made that, "... the attention of the (Divisional) Court does not appear to have been directed to *Archer-Shee's Case*, in which the House of Lords, by a majority, adopted the view that the income of certain securities 'belonged' to the *cestui que trust* thereof."

The facts of *Baker* v. *Archer-Shee* [1927] A.C. 844, well repay consideration. There an American citizen bequeathed the residue of his property in trust for his daughter during her life. The trustees, a company constituted under the law of New York, had full power over the investment of the trust fund, which consisted of foreign government securities and other foreign property, and paid over such of the sums received by them as they considered to be income, after deducting expenses, to the order of the beneficiary at a bank in New York, no part thereof being remitted to the United Kingdom. The respondent (who was the husband of the beneficiary and who resided in the United Kingdom) was assessed for income tax under Schedule D, Case IV, in the full amount of the income of the trust, and it was against this assessment that the appeal was entered.

Rowlatt, J., held [1927] 1 K.B. 116, that the interest of the beneficiary "is merely an equitable one, and it is not an interest in the specific stocks and shares constituting the trust fund at all," and this view was approved of in the Court of Appeal by Lord Hanworth, M.R., who said [1927] 1 K.B., at p. 120, that what the trustees paid over to the beneficiary "is not what I call the dividends *in specie* in their actual form; what they remit is the balance in their hands after they have carried out their trust and defrayed the expenses which fall upon the trust. They do not remit the whole of the income from the profits, but they remit a sum which has lost its origin or parentage; it has lost the shape of dividends, share warrants or the like, and is merely a sum of money which represents the balance after payment of the sums which would properly fall upon the trust."

Lord Wrenbury, on the other hand, said in the House of Lords [1927] A.C., at p. 865: "... the question is not what the trustees have thought proper to hand over and have handed over (which is a question of fact), but what under the will Lady Archer-Shee is entitled to (which is a question of law). The trustees, of course, have a first charge upon the trust fund for their costs, charges and expenses ... But this does not reduce the right of property of the beneficiary to a right only to a balance sum after deducting these ... Lady Archer-Shee is, in my opinion, as a matter of construction of the will, entitled in equity specifically during her life to the dividends upon the stock."

The decision—a majority one of Lord Atkinson, Lord Wrenbury and Lord Carson, with Viscount Sumner and Lord Blanesburgh dissenting—was a startling one and it has been much criticised. Mr. H. G. Hanbury has described it (44 L.Q.R. 471-2) as "a menace to equitable principles," and

says: "It is fervently to be hoped that the decision . . . will be confined within narrow limits and not allowed to upset well-established principles of equity." But, as Mr. Keeton ("Law of Trusts," p. 291) rightly points out, it is difficult to dismiss the general observations of the majority of the House of Lords as bearing only upon income tax law. They are expressed in very wide terms, and while, naturally, every phrase in a judgment must be read in the light of the actual facts which the court was called upon to consider, it seems well-nigh impossible to the present writer to escape the conclusion that the traditional view of a *cestui que trust's* interest as being *in personam* only has received a severe blow.

In view of this decision, what of *Schalit* v. *Nadler*? Is it possible to draw any valid legal distinction between the rights of the limited company in *Schalit's Case* and that of the beneficiary in *Archer-Shee's Case*? In the former case, Goddard, J., said (at p. 83) that if authority was needed for the proposition that the beneficiary's right was merely to an account it was to be found in the judgment of Scrutton, J. (as he then was) in *Allen* v. *Inland Revenue Commissioners* [1914] 1 K.B. 327. That decision, however, does not appear to have been cited at any stage in *Archer-Shee's Case*, while, on the other hand, the last-named case was not mentioned to the Divisional Court in *Schalit* v. *Nadler*. Goddard and Acton, JJ., presumably delivered judgment in accordance with what they, not without good reason, believed to be the well-established traditional view of the nature of equitable rights, and Mr. Keeton therefore rather misses the point when he says ("Law of Trusts," p. 292): "In *Schalit* v. *Nadler* it is important to observe that the Divisional Court *stressed the continued importance* of the distinction between the legal ownership of the trustee . . . and the equitable interest of the beneficiary." The Divisional Court indulged in no such "stressing" process, for the simple reason that, as far as a careful perusal of their reported judgments would appear to indicate, Acton and Goddard, JJ., were blissfully unaware that that distinction had in any way been impinged upon. It is for this reason that the present writer finds himself compelled to the conclusion that *Schalit* v. *Nadler* is of doubtful value and unreliable. And it is a necessary corollary to this conclusion that in the writer's view the note to s. 141 (2) of the Law of Property Act contained in "Wolstenholme and Cherry," already referred to, accurately expounds the law on this matter.

Company Law and Practice.

Payments in Advance of Calls.

Section 48 of the Companies Act, 1929, provides that a company, if so authorised by its articles, may accept from any member the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up; and such a power is a very usual one in articles of association. The form in Table A (cl. 16) runs thus:—

> "The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him; and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the company in general meeting, 6 per cent.) as may be agreed upon between the member paying the sum in advance and the directors."

The power, as I have said, is a usual one, and certainly from the company's point of view an advantageous one. The nature of the advantage was explained by Lindley, L.J., in *Lock* v. *Queensland Investment & Land Mortgage Company* [1896] 1 Ch. 397, at p. 405, in these words: "It is a benefit to a company to be able to raise money upon terms so much more favourable to itself than by contracting an ordinary debt, when it would be compelled to repay the principal as well as to pay the interest on it. By this machinery the company can raise money, by obtaining advances from the shareholders in respect of calls on their shares not yet due upon the terms of paying to them what I may call for convenience interest upon the capital so prepaid, which interest will cease when the capital is paid up. It is interest on prepaid capital; and when the prepayment ceases to be a prepayment no interest will be payable."

The power may also be of advantage to shareholders; for example, trustee shareholders, and others to whom the prospect appeals of prepaying a future debt on the footing that until the debt becomes due they are to receive an agreed rate of interest, and that in the meantime a company in which they hold shares is to have the benefit of the use of the money. There are one or two disadvantages, however, which deserve notice. In the first place there would not, I suppose, be a ready sale for such shares on the Stock Exchange unless a large number are paid up in advance and a quotation secured. Further, and this may be a more serious matter to an individual shareholder, it would appear that money so paid in advance cannot be repaid before liquidation unless a reduction of capital were effected in the ordinary way. This is illustrated by the case of *London & Northern Steamship Company Limited* v. *Farmer* [1914] W.N. 200. There a number of shareholders had paid calls in advance and the payments were carrying 4 per cent. interest. The dividends paid by the company had averaged 8½ per cent. per annum, and some of the shareholders who had prepaid calls were pressing the company either to treat the amounts paid in advance as part of the company's ordinary capital for dividend purposes or to call up the prepaid amounts and set off the calls against the prepayments, or to repay to such shareholders as desired it the amounts paid in advance. The company took out a summons to determine whether it could repay the prepaid balances. Joyce, J., held that the company had no such power; the money paid was not an ordinary loan of which the shareholder paying it could require payment or which the company could repay if the shareholder refused to receive the money.

But if payments made in advance of calls are not repayable before liquidation they do in a winding-up rank in priority to capital not paid up in advance, though of course they only come in after ordinary creditors have been satisfied. So in *Re Exchange Drapery Company*, 38 Ch. D. 171, it was held that in the winding up of the company, there being surplus assets of the company after payment of debts, shareholders who had paid advances on calls on terms which entitled them to interest were, before any payment was made to other shareholders, to receive first the amounts of their advances together with interest thereon to the date of the commencement of the winding-up, and then, out of any surplus still remaining, further interest from that date to the date of actual repayment. The same principle of repayment was applied in the case of *In re Wakefield Rolling Stock Company* [1892] 3 Ch. 165.

We have seen that the usual form of article provides for payment of interest at an agreed rate upon sums which are paid by shareholders in advance of calls; and it is important to observe that such shareholders are not restricted to the profits of the company as the source of such interest. It was held by the House of Lords in *Lock* v. *Queensland Investment and Land Mortgage Company* [1896] A.C. 461, that the interest on moneys paid in advance is a legal debt payable out of any assets of the company including capital. Kay, L.J., in the Court of Appeal, explained the reasons for this in the following words ([1896] 1 Ch. 397, at p. 407): "The agreement to pay interest is valid and the effect of the transaction is that the company borrow money from their shareholders which they need not repay. This is a great advantage to the company, because, if they borrowed from outsiders the money borrowed might be recalled and the company would have to repay it;

but, borrowing it from shareholders, they are not bound to repay the capital. But they are at liberty to contract to pay interest on the money borrowed; and what is that interest which the company contract to pay? Is it anything but a debt? It is not a dividend on the shares. I cannot conceive how in law it can be considered as anything but a debt. There being a valid legal contract to pay interest upon money which the shareholder voluntarily pays in advance on the faith of that contract, the interest must be a debt created by that contract; and, if so, why should it not be paid out of capital? All debts, whether for interest or principal, or anything else, may be paid out of capital." It had been argued that the payment of the interest out of capital would amount to an irregular reduction of capital and offend the well-known principle in *Trevor* v. *Whitworth*, 12 A.C. 409, but the learned lord justice pointed out that it was in no sense a reduction of capital but a spending of capital in payment of a lawful debt, which occurs whenever money has to be paid out of capital to discharge a company's liabilities.

But there is this qualification to the general rule that such interest can be lawfully paid out of capital; namely, that the agreement to pay interest must be made in good faith and in the honest exercise of the discretion confided to directors. "Directors acting otherwise would be exposed to very serious liability and might be called upon to repay all moneys improperly paid out of capital under colour of paying interest" (per Lord Macnaghten, in [1896] A.C. 461, at p. 469). If, for example, purporting to exercise a power in the articles to receive payments in advance of calls, the directors called a small amount on shares and then received large amounts in advance of further calls with a view to paying out of capital, and without regard to profits, what was termed "interest" but in substance amounted to dividends, such a liability might well accrue.

The power to receive payments in advance involves, as Bacon, V.-C., said in *Re European Central Railway Company: Sykes' Case*, L.R. 13 Eq. 255, "the exercise of a faithful and honest discretion on the part of the directors, exercised only for the benefit of the shareholders, and they may under these conditions alone exercise the power." If the power is exercised in the interests of the directors the transaction is liable to be set aside. So in *Sykes' Case* the company was insolvent and the directors acting in exercise of a power to receive payment of calls in advance paid into the bank the amounts remaining uncalled on their own shares, and on the same day appropriated the money in payment of their fees, for which there were at the time, as they well knew, no other available assets. It was held that the effect of the transaction was that there had been no *bonâ fide* payment in anticipation of calls, so that the directors were not relieved from liability upon their shares. So in *Re Law Car & General Insurance Corporation* [1912] 1 Ch. 405, a director guaranteed to the company's bankers a sum of £5,000 advanced by them to the company upon the terms of a resolution of the directors that any payments made by him in respect of the guarantee should be treated at his option as payments made in advance of calls. The director made no payment under his guarantee until after the liquidation of the company, and he then gave notice to the liquidator of the exercise of the option given him by the resolution. Neville, J., held that, assuming the validity of the contract between the director and the company, the position was that he was only entitled to treat the debt due to him as satisfaction of the debt due from him to the company, and so he could not set-off the money he had paid against a call by the liquidator.

With those two cases must be contrasted *In re Wincham Shipbuilding, Boiler & Salt Company: Poole's Case*, 9 Ch. D. 329. There three directors of the company had given a personal guarantee for money advanced to the company by the bank. Subsequently the bank brought an action on the guarantee and recovered judgment against the three directors. A directors' resolution was then passed that in order to reduce the debt due to the bank the directors be recommended to pay in advance the amount of their shares. The three directors paid these amounts, which were carried to the company's credit at the bank, reducing the balance against the company and relieving the three directors from their guarantee. Shortly afterwards a petition was presented for the winding-up of the company. The Court of Appeal held that the payment was a valid payment on account of the shares, which must be treated as paid up. The directors were trustees for the shareholders and not for the company's creditors, and though they had derived a collateral advantage for themselves they had not injured their *cestuis que trust*.

A Conveyancer's Diary.

Stamp Duty on Conveyance of Building Plot—Vendor Contracting to Build.

I WROTE on this subject last year (78 SOL. J. 815), and referred to the case of *McInnes* v. *Inland Revenue* (1934), S.L.T. Rep. 365. Now there is an English case on the point (*Kimber & Co.* v. *Commissioners of Inland Revenue*), heard before Finlay, J., on 11th April, 1935, for a report of which we are indebted to *The Law Society's Gazette* for this month (p. 138).

It is most interesting to contrast these two authorities. In the former the Commissioners were successful, but in the latter were not. Although the learned judge said that he felt bound to follow the Scottish case, he was able to distinguish it on the facts.

I stated the facts in the *McInnes Case* in my former article and need not repeat them here, except to refer to them to show the ground upon which Finlay, J., distinguished them from those in the case before him. The facts, or rather, the inferences to be drawn from them are, of course, all-important.

In the *Kimber Case* it appeared that a conveyance was submitted for adjudication. The conveyance was dated the 4th March, 1935, and purported to be a conveyance of a piece of land in consideration of £500. The usual certificate as to value was contained in it.

With the conveyance there were submitted three other documents: (1) A contract for the sale of the plot of land the subject of the conveyance; (2) a contract for the building of a house upon the land by the vendors for £1,350 payable by instalments; and (3) a deed of charge whereby the vendors agreed to advance to the purchaser the last £900 payable by the purchaser under the building contract, and the purchaser charged the land and any buildings thereon with the repayment thereof in accordance with the building contract.

The house had been partly built at the date of the conveyance.

The Commissioners were of opinion that the conveyance was chargeable with *ad valorem* duty upon £1,850, being the price of the land (£500) and the price for the building of the house (£1,350). They expressed the view that there was a single transaction between the vendors and purchaser for sale of a plot of land and a house thereon, and that the £1,350 payable under the building contract must be deemed part of the consideration in respect thereof.

The contention of the purchaser was that the conveyance was a conveyance of the land only, and that the amount of the consideration was £500, and he also contended that the conveyance was one where the amount or value of the consideration did not exceed £500, and that the transaction thereby effected did not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeded £500. He contended, alternatively, that the duty should be assessed not on the price for the land and the completed house, but on the price for the land and the price or

value of the building at the date of the conveyance, which it was said did not exceed £300, making a total of £800.

On the bare facts as above stated, it would have been thought that the Scottish case was an authority in favour of the Commissioners, but it was upon a close examination of the precise provisions of the documents that Finlay, J., came to a different conclusion.

His lordship said, after referring briefly to the facts, that it was perfectly plain that looking at the contracts the parties could not have contemplated that by any possibility the house would be completed at the date fixed for completion. Then his lordship read a clause in the contract for sale to which great importance was attached. "Contemporaneously with the exchange of this contract, the parties hereto have entered into a separate contract whereby the vendor undertakes to erect a house upon the plot for the purchaser upon the terms and at the price therein mentioned. It is hereby agreed that the building contract is a conditional contract, and that the same shall become absolute and binding upon the parties hereto upon completion of the purchase of the plot: Provided always that if the purchaser shall be under a duty to but shall neglect or fail to complete his purchase of the plot according to this agreement then (for the purpose of assessing any damages to which the vendor may be entitled by reason of such neglect or failure) the building contract shall at all times be deemed to be an absolute contract."

Commenting upon that clause, his lordship said: "Now what that means, I think, is pretty plain. It refers to the other contract and says that that other contract is a conditional contract to become absolute and binding upon completion of the purchase of the plot. The importance of that seems to me to be this, that it makes it quite clear that there are two quite distinct contracts, one absolute and the other conditional, and it shows I think that what was contemplated and intended by the parties was this, that there should be first of all a sale of the plot of land for the price agreed upon between them, and that when the sale was completed there was to be a house built upon the site and built by the vendor." The learned judge added that there could have been no question if the building contract had been with someone other than the vendor.

I may say in passing that in the Scottish case the contract to build was not with the vendor, although it was with a company of which the vendor was the managing director, and held practically all the shares. In that case, however, the house was built before completion, although that was not contemplated in the agreement; in fact the agreement was to build the house within twelve months after conveyance.

I venture to think that the clause which I have quoted and to which so much importance was attached was inserted more for getting in the proviso than anything else. The agreement to build could have made it clear that the vendor was not to start until completion. In fact I should think that would be necessarily implied unless the contrary appeared. The proviso is the important part, and that applied to make the contract absolute throughout.

The learned judge referred to s. 10 of the Finance Act, 1900, which he said he thought to some extent assisted the appellant's contention. That section enacts that: "A conveyance on sale made for any consideration in respect whereof it is chargeable with *ad valorem* duty, and in further consideration of a covenant by the purchaser to make or of his having previously made any substantial improvement of, or addition to, the property conveyed to him or of any covenant relating to the subject matter of the conveyance, is not chargeable and shall be deemed not to have been chargeable with any duty in respect of such further consideration." That section does not seem to be very material because it only relates to covenants, improvements, etc., entered into or done by the purchaser, not by the vendor.

His lordship proceeded to deal somewhat fully with the judgments in *McInnes* v. *Inland Revenue*, and quoted from Lord Morison, from whose judgment he thought the gist of the decision could be gathered. "Now in this case there are two sets of documents, namely, the missives which are dated contemporaneously and which are part and parcel, in my opinion, of one transaction. It seems to me that the effect of the missives is that the appellant bought a house and a site for it. That is the substance of the transaction, and a consideration of both sets of missives was necessary to ascertain the true consideration." The missives referred to were (1) letters between the purchaser and vendor as to the sale and purchase of the site, and (2) letters between the purchaser and the building company regarding the erection of the house.

I think, however, that it is plain that the most important point in that case was that the house had been built at the time of the conveyance, which, in fact, passed both site and house.

That brings me to the alternative view which was put by the appellants in the *Kimber Case*, namely, that the duty should at any rate be only on the price of the site and the value of the building which in fact was upon it at the time of the conveyance.

In commenting upon the Scottish case, I drew the conclusion from the judgments there that that would be right. Finlay, J., however, did not adopt that view. After stating the contention his lordship said: "Well I do not think that that can be right. It depends upon the accidental circumstance that the builder, no doubt having confidence in his client, had gone in and begun before in fact it was contemplated that he should." Well, in the *McInnes Case* the builder showed greater confidence in his client because he not only began but completed the house before it was contemplated that he should. Moreover, in the *Kimber Case* the builder was the vendor and legal owner of the land and if the purchaser did not complete the house would be his. Whereas, in the *McInnes Case* the builder was not the vendor, although no doubt a company said to be controlled by him.

I am not criticising the judgment of Finlay, J., but pointing out that it is very difficult (at least I think it is) to reconcile it with the decision in the Scottish case.

There is one other point which I must mention. Whilst Finlay, J., held that there were two transactions and not merely one, he did not deal with the question whether the two transactions constituted a "series of transactions," although the result of his decision is that they did not. His lordship held that the duty was £2 10s., i.e., 10s. per cent. on £500, the price of the land.

I think that most of us would have been glad if his lordship had said something about the meaning of the expression "series of transactions," and stated why these two transactions did not form such a series. The meaning of these words has always been obscure to me, but now at least we know that if there be a contract to purchase a site and the vendor contracts to build a house on it for the purchaser these two contracts are not a series of transactions within the contemplation of the usual "certificate of value." But how that knowledge will help us or be a guide in that matter where the facts are not precisely the same, I do not at present see.

A youth who had previously been released on the intervention of a member of Parliament from an approved school to which he had been sent was brought before Mr. P. MacBeth, the Salford Stipendiary Magistrate, recently, says *The Times*, on a charge of larceny. It was stated that the youth had been liberated as a result of an appeal by a Member of Parliament to the Home Office. Mr. MacBeth said: "I wish they would not do it. These M.P.'s make application to the Home Office to get youths released without taking the trouble to consult either the police, probation officers, or the magistrate who has decided that a period at an approved school is the right thing." The youth was bound over for a further period of two years.

Landlord and Tenant Notebook.

The Rent Restrictions Acts: Recent Authorities.

A MISPRINT in one of our contemporaries, which makes reference to the "Rest" Restrictions Acts, if not such as to attract the attention of *Punch*, does serve to remind me that the legislation intended to be referred to is still on the Statute Book, and still occasionally the subject of judicial interpretation. The "Notebook" last dealt with *Stokes* v. *Little* [1935] 1 K.B. 182; 78 SOL. J. 784, in which the Court of Appeal, reversing the decision of the Divisional Court, held that a late certificate of registration of a "Class C" house was retroactive, in our issue of 27th October last (78 SOL. J. 763). That such a certificate renders an apportionment order ineffective was more recently demonstrated in *Pearman* v. *Dyer*, reported in our issue of 11th May last (79 SOL. J. 342).

There has been one other authority dealing with a point arising out of the 1933 Act which is worth noting, not so much for the sake of the point itself as for the way in which it was disposed of. In *White* v. *Bembridge* [1935] 1 K.B. 244, C.A., the validity of a claim for two quarters' rent depended on whether the premises let were decontrolled or not. This, again, depended on whether their rateable value within the meaning of the 1933 Act did not exceed £45 (the building being in the Metropolitan Police District) on 6th April, 1931; and, by s. 16 of that enactment, rateable value is "the value shewn, with respect to that dwelling-house on that day in the valuation list then in force as the rateable value, etc." Now it so happened that in 1929 the tenant had made the ground floor into a post office, and the house, previously rated at £60 gross and £47 net, thereafter had the following entry against it: "ground floor exempt, rooms on first floor are of gross value £16, rateable value £12." The decision of the Court of Appeal was that, on this, the premises were decontrolled.

Now there must be but few post offices situated within the curtilages of premises to which the Rent Restrictions Acts apply or applied. But the case is worthy of consideration for this reason: Lord Hanworth's judgment proceeds entirely on the lines that it was for the tenant to prove control. The view therein taken was that it was for the defendant to discharge an onus, and that he had failed. This method of approach is entirely at variance with the principles previously followed. In *Salter* v. *Lask* (No. 1) [1924] 1 K.B. 754, C.A., the court pointed out emphatically that the Acts placed a fetter on the court, not on the landlord; the law was adjective law; it was the duty of the judge to satisfy himself whether or not a house was within the Acts, for the matter concerned jurisdiction. True, that was a case of possession, and it was s. 5 of the 1920 Act that commenced with "No order or judgment for the recovery of possession . . . shall be made, unless"; but the restriction on the right of possession is ancillary to the restrictions on increases of rent which are the main object. And at all events, r. 18 of the County Court Rules very clearly enacts: "Where proceedings are taken . . . for the recovery of rent . . . or for the recovery of possession . . . the court shall, before making an order . . . *satisfy itself* that such order may properly be made . . ." So that it would appear that a judge giving judgment for rent in excess of the permitted increases would be in the same position as a judge enforcing a gambling contract. But *White* v. *Bembridge* takes quite a different view, and proceeds on the principle that a tenant is not protected unless he can prove it.

Two cases on matters arising out of the 1920 Act have overruled older decisions. In each case the older decision was in favour of the tenant. In *Wheeler* v. *Wirral Estates Ltd.* [1935] 1 K.B. 294 C.A. it was laid down that "standard rent" means the rent at which premises were actually let at the relevant date though at that time, owing to the Crown being the landlord, the Acts did not affect the relationship of landlord and tenant; and that *Clark* v. *Mead* (1933), 149 L.T. 308, to the opposite effect, was wrongly decided. Then, *Phillips* v. *Copping* [1935] 1 K.B. 15, C.A., has laid it down that the rent of controlled premises found to be let at less than their standard rent may be increased to and above the standard rent; as was pointed out, Parliament never meant to prevent a landlord from recovering the pre-war rent; and this decision overruled that of the Divisional Court in *Dufty* v. *Palmer* [1924] 2 K.B. 35. Again, readers with landlord clients who purchased reversions from the Crown or who let premises at less than 1914 rents may be few; but these overruling decisions suggest that the trend of authority now favours liberal interpretation.

On the other side, reference should be made to the question whether the 1933 Act has repealed ss. 21 (3) and 59 (1) of the Housing Act, 1930, which exclude—or excluded—condemned houses from protection. This interesting point was gone into in a county court case, *Brown* v. *Pearson*, recently reported in this Journal: issue of 27th April last (79 SOL. J. 301). As will be seen, a number of authorities on the question of repeal by implication were cited, and the learned judge came to the conclusion that s. 3 and the Schedule to the Rent, etc., Restrictions (Amendment) Act, 1933, by not including the case of a demolition, etc., order, had reduced the number of grounds for possession. A result probably not contemplated by Parliament. Interpretation of statutes generally is outside the scope of the "Notebook," but I may perhaps mention that Maxwell's principle, "repeal by implication is not favoured," received a bit of shock during the Great War, when in *R.* v. *Halliday* [1917] A.C. 260, the House of Lords (Lord Shaw dissenting in convincing manner) held that the Defence of the Realm Consolidation Act, 1914, had impliedly repealed the Habeas Corpus Acts and part of Magna Carta.

Our County Court Letter.

THE REMUNERATION OF PLAYWRIGHTS.

IN *Bowman* v. *Mersey Entertainments (Widnes) Ltd.*, recently heard in the Liverpool Court of Passage, the claim was for £26 as damages for breach of contract. The plaintiff's case was that he had been verbally instructed by the defendants' managing-director, to write two one-act plays as an introduction and advertisement for the film "Cleopatra." The fee was agreed at £13 a week for everything, including the playing of the chief part by the plaintiff. The plays were rejected on the ground of alleged unsuitability, whereas the difficulty was that the film renters would not contribute towards their cost. The defence was that the proposal to present dramatic sketches was made by the plaintiff, but there was no agreement with regard to any being specially written, or that he should be paid £13 a week. The presiding judge, Sir W. F. K. Taylor, gave judgment for the plaintiff, with costs.

THE RIGHTS AND LIABILITIES OF RABBIT TRAPPERS.

IN the recent case of *Stayt* v. *Hughes* at Stow-in-the-Wold County Court, the claim was for £10 as the rent of rights of rabbiting, and the counter-claim was for £16 10s., being £3 for the detention of 24 rabbit traps, and £13 10s. for the loss of use thereof for nine weeks at 30s. a week. The plaintiff's case was that a written contract was entered into, whereby the defendant was to pay £10 for the sole right to catch rabbits on the plaintiff's farm, from the 10th August, 1934, to the 1st February, 1935, except during November, the defendant agreeing not to use steel traps nor a gun. No money had been paid, as the trapping was not begun until December, and in January the plaintiff found 24 steel traps, which he removed. The defendant's case was that, having 2,000 acres to work, and being single-handed, he could not get to the plaintiff's farm any earlier. The weather was bad

in December, so that he only caught 20 rabbits in two nights, and the removal of his traps only left him 14 to work with. His Honour Judge Kennedy, K.C., held that the late start was due to the defendant having taken on too much work single-handed, and he had also broken his contract by using steel traps. The plaintiff was entitled to £9 10s. on the claim, without costs, but had no right to detain the traps, and must pay the defendant £5 10s. on the counter-claim, without costs.

Reviews.

The English Legal Tradition: Its Sources and History. By Henri Lévy-Ullmann, Professor of Comparative Law in the University of Paris, Vice-President of the International Academy of Comparative Law, The Hague. Translated from the French by M. Mitchell. Revised and edited by Frederic M. Goadby, D.C.L. 1935. Demy 8vo. pp. lvi and (with Index) 383. London: Macmillan & Co., Limited. 16s. net.

This work by an eminent French jurist, well styled by Sir William Holdsworth in an appreciative foreword, "a man of great legal genius," is a book of rare merit and a welcome addition to the literature concerned with the evolution of our legal system. At the same time it is a remarkable tribute to the fascination which our insular system appears to exercise upon foreign observers brought up in a completely different juridical atmosphere—a fascination shared by others in France besides Professor Lévy-Ullmann, and including at least one lady, Mlle. Aslan, who has written a monograph on so apparently unappetising a theme as the English mortgage. For his task the learned author of the volume was well equipped, having, as he tells us, devoted no less than thirty years to the study of English law and ten years to the preparation and writing of the book, in which all the ancient and modern literature on the various topics has been laid under contribution and carefully appraised, this thoroughness of exploration being further incidentally exemplified by the fact that, in dealing with the Inns of Court, Charles Lamb's quaint contribution to the subject in his essay on "The Old Benchers of the Inner Temple," has not been overlooked. In a succession of chapters Professor Lévy-Ullmann tells us of the predominant influence of the writ in early days, when, as he puts it, substantive law was hatched out in the pigeon-hole of adjective law and bore the imprint of the formalism of its origin: of the invention of the action of assumpsit destined to play so beneficent a rôle in emancipating the law from its procrustean formulæ; of the sources of the law—decisions, records, reports, books of authority, statutes; and, finally, he gives us an admirable survey of the rise and subsequent history of equity, finishing with the indication of a doubt whether in these days equity quite lives up to the standard of the lofty maxims with which it started and which indeed constituted its *raison d'être*, the doubt being reinforced by the dictum of Mr. Justice Buckley, who startled his hearers by declaring that "this court is not a court of conscience." In utilising the many authorities cited in the text and footnotes the author has added to the charm of his volume and to the delight of his readers by noting in some of the old reports the strange mixture of Franco-English jargon, including, for example, the quaint statement in a case reported by Dyer of a prisoner who during his trial "*ject une graunde brickbat que narrowly mist*" the judge's head. In a work covering so extensive a field it would scarcely be surprising if occasional slips were to be found, but of these we have detected extremely few. On p. 75 the statement as to the amount of the salaries of the Chief Justices "up to 1873, on the eve of the Judicature Acts," is inaccurate, these salaries having been reduced some twenty years earlier; nor is it correct to say as is done on p. 120 that the *Weekly Reporter* "in 1857 became the prosperous *Solicitors' Journal and Reporter*," although we appreciate the complimentary adjective prefixed to the name of our journal. A third slip may be noted on p. 209 where "Blackstone" is erroneously quoted as including Magna Carta among the "*leges non scriptæ*." But all these are minute specks in a book both brilliant and pleasant to read. A word of appreciation should be added as to the excellence of the translation, and as to the respective shares of the publishers and printers in the production of the volume.

International Law in Peace and War. Part II—Conflicts between States. By Axel Möller, Dr. Juris. Translated by H. M. Pratt, of the Inner Temple, Barrister-at-Law. 1935. Royal 8vo. pp. xxxi and (with index) 323. Copenhagen: Levin and Munksgaard; London: Stevens & Sons, Limited. 20s. net.

Writers in the smaller states have a point of view upon international affairs different from those in the great countries, which, on occasion, do not hesitate to remould international law according to their will and their necessities. We welcome the second part of this Danish work, with its outspoken observations on the arbitrary modifications made in the Great War. The war was followed by hopeful attempts at a more definite and more universal rule of law in international affairs, and though we have seen some terrible setbacks to the work which alone can save Europe as a centre of civilisation, we believe that work will go on. For ourselves, we look to the smaller peoples for energetic collaboration in it. England has no ancient grudges to feed, no overpowering fears to deflect her from the course of justice, and although recently there has been oscillation between supporting the word of the peace treaties, which makes them an instrument for the domination of the Allies, and the spirit which looks towards general disarmament, our first and greatest interest is peace, and this interest will prevail. It is odd to describe Russia's admission into the League of Nations as a daring experiment (see footnote, p. 120). The treaties reserved her a place and she has entered into it. It cannot be for anything but good that she shall publicly state her aims. It would not be surprising if there are reservations in the minds of her leaders. Such exist probably in the minds of statesmen of other nationalities. But coming out into the open is the order of Geneva, and the more universal the membership of the League becomes, the less room for secret and dangerous diplomacy exists. "Despite the defects of the League it is still a means for peace." We have reviewed the book in the light of the wide practical issues of the present day. It also contains a full statement of the hitherto accepted rules of international law. It should find a place on the shelves of the statesman and the international lawyer.

Books Received.

Report of an Inquiry into the Effects of Existing Economic Circumstances on the Health of the Community in the County Borough of Sunderland and Certain Districts of County Durham. By James Pearse, C.B.E., M.D., J. Alison Glover, O.B.E., M.D., and K. W. Grant. 1935. London: H.M. Stationery Office. 9d. net.

Report on the Supervision of Milk Pasteurising Plants. By Sir Weldon Dalrymple-Champneys, Bt., M.A., D.M., F.R.C.P. 1935. London: H.M. Stationery Office. 1s. 3d. net.

Rates and Rateable Values, England and Wales. 1935. London: H.M. Stationery Office. 1s. net.

[All books acknowledged or reviewed can be obtained through The Solicitors' Law Stationery Society, Limited, London, Liverpool and Birmingham.]

To-day and Yesterday.

Legal Calendar.

20 May.—Henry Bathurst, second son of the first Earl Bathurst, was born on the 20th May, 1714. He lived to be raised to the peerage himself as Baron Apsley to succeed to his father's title and to sit upon the Woolsack as the most inefficient Chancellor of the eighteenth century. Yet London should not lightly forget his name, for Apsley House, surviving to remind us that dignity once ruled English architecture, was built for him. He held the Great Seal for over seven years, being succeeded in 1778 by Thurlow.

21 May.—Lord Eldon had been nearly two years Chief Justice of the Common Pleas when he was appointed Lord Chancellor in 1801. The Government was in a state of complete confusion, made worse by the severe illness of the King. Had it proved fatal, the new Chancellor would certainly have lost the Great Seal, so, lest he should find he had dropped the bone for the shadow, he did not relinquish his old office, remaining in the singular position of being simultaneously Lord Chancellor and Lord Chief Justice of the Common Pleas, exercising publicly the duties of both offices. This continued for over a month, till on the 21st May he resigned the lesser post.

22 May.—A strange case came on at the quarter sessions at Hicks's Hall on the 22nd May, 1779. Four boys of Westminster School were found guilty of an assault on a man in Dean's-yard, Westminster. They had beaten him, wounded him and threatened to rip him up with a drawn knife unless he knelt down to ask pardon for some offence he had given. The bench sentenced them to a fine of £100 and a month's imprisonment, to be remitted if they begged the prosecutor's pardon on their knees. This they refused, but as one of the young ruffians got off on the ground that he had to go up to Oxford, the magistrates decided to let the others off too on payment of £50 to the prosecutor besides his costs.

23 May.—A peculiar story was told on the 23rd May, 1823, when Colonel Richard Graves was tried before the court of New Kent, in Virginia, on a charge of sending a challenge to Captain Archibald Lacy. There had been a difference between them which Lacy wanted to settle with fists, but Graves insisted on the following ingenious scheme: Two cups were to be filled, one with pure water and the other with deadly poison. The antagonists were to draw lots for choice and then each was to drink his draught. Lacy, however, refused to hazard his life in any manner whatever. On each of the six counts of the indictment the jury acquitted the prisoner.

24 May.—At the meeting of the Council held in Lincoln's Inn on Ascension Day, the 24th May, 1582, it was decided, according to the record, that Mr. Elam should be put out of commons and fined five marks "for his misdemeanour in using evill speeche towardes the Pencioner and callyng one of ye Butlers 'Knave' and not obeyeng when he was warned to departe owt of the Hall and to remayne owt of commons."

25 May.—On the 25th May, 1756, the very day appointed for him to kiss hands as Lord Ryder of Harrowby, Lord Chief Justice Ryder died suddenly. He had reached his sixty-sixth year and his strong constitution had seemed to promise a good old age. His judicial career had been extremely brief, being only a few days more than two years. He was "an honest man and a good lawyer, but not considerable in any other capacity." It was expected that his son would be granted the elevation thus snatched away by death, but this generous gesture was neglected. Eighteen years later, however, he was raised to the peerage on his own account.

26 May.—Michael Barrett, hanged at the Old Bailey on the 26th May, 1868, was one of the last men to be publicly executed in England.

The Week's Personality.

Four people were killed and about forty injured when in pursuance of a Fenian plot part of the wall of Clerkenwell Prison was blown down in December, 1867. Michael Barrett, a handsome young fellow of the labouring class, was identified as one of the men concerned. Tried at the Old Bailey and found guilty, he delivered a speech before sentence which by its wonderfully pathetic oratory drew tears from the hearers, even from the Bar and almost from the very judges: "It may seem hard to part with life so soon; but since it is the will of God to call me I will meet death without a murmer, and, as He in His all-wise way directs all things for the best, I venture to hope it will please God to turn even the sacrifice of my poor worthless life to the account of my poor suffering country. I shall now ascend the scaffold with firmness, strengthened by the consolatory reflection that the stain of murder does not rest upon me, and mingling with my prayers for my soul those for the regeneration of my native land. I have done." There was an innate nobility in his character and demeanour which softened even the prison warders. The last night of his life was spent in prayer. On the scaffold he bore the yells of the crowd with perfect coolness and mounted the fatal ladder quite unmoved.

Royalty in the Inns.

A pleasant continuity of tradition would have been emphasised could the crowded days of the Jubilee celebrations have permitted His Majesty as Senior Bencher of Lincoln's Inn to dine in Hall on the Grand Day which the Duke of Kent, also a Bencher, attended. It was in Lincoln's Inn that the tradition of royal membership of the Inns of Court began, when in 1671 Charles II, the Duke of York, afterwards James II, and Prince Rupert came thither. "Towards the end of dinnar, his majestie, to doe a transcendant honour and grace to this societie, and to expresse his most gracious acceptance of their humble duty and affection towards him, was pleased to demand the booke of admittances to be brought to him and with his owne hand, entered his royall name therein, most graciously condescending to make himself a member thereof; which high and extraordinary favour was instantly acknowledged by all the members of this society, then attending on his majesty with all possible joy, and received with the greatest and most humble expressions of gratitude; itt being an example not precedented by any former king of this realme." After dinner, the fountain of honour played, and two benchers, a barrister and a student, were knighted.

Jesting Themis.

"You have not been on the bench as long as I have, so let me give you a little advice—never in your judicial capacity make a joke," said Swift, J., recently to a J.P. giving evidence before him. Yet despite the observance of this maxim, the genial personality of the learned judge admits no gloom into his court and in no wise suggests the sour mood of that Stuart judge, who, when a learned brother observed: "My Lord, you are not merry," sharply replied: "Merry enough for a judge." The other extreme and the worst type of judicial humorist was Lord Chief Justice Norbury, of the Irish Common Pleas, who could even pass sentence of death flippantly. His puns kept the press constantly supplied with "Lord Norbury's Latest." His charges to the jury were comical mixtures of fact, law, quotations from plays, punning allusions to the witnesses, the litigants and the counsel. The audience, generally idle and often tumultuous, flocked to his court as to a theatre. The place was always in an uproar, and once, when a witness on being asked what was his business, said "I keep a racket-court," the Chief Justice threw up his hands and exclaimed: "Oh, so do I! So do I!" He sat on the Bench till age had so magnified his incompetence that he had to be bought off with an earldom.

Notes of Cases.

Court of Appeal.

Mitchell *v.* Alexander.

Slesser and Roche, L.JJ. and Swift, J.
1st and 2nd May, 1935.

CONTRACT—FORMATION OF CLUB—FIDUCIARY RELATIONSHIP—BREACH—DAMAGES.

Appeal from a decision of Lord Hewart, C.J. (78 SOL. J. 915.)

In 1932, the plaintiff, who was then without employment, conceived the idea of forming a social club for officers of the Territorial Forces and mentioned it to a friend, T., who was also without employment. They agreed to promote a scheme for this purpose with the intention of obtaining positions of remuneration in the administration of the club. They incurred expense in ascertaining what support might be expected from officers in the Territorial Forces and received 1,200 replies to a circular letter, mostly favourable. In February, 1933, the organisers began negotiations with the defendant to acquire premises in Piccadilly of which he held a lease, for the purposes of the proposed club. The defendant asked for details, suggested that he might finance the scheme and said that a proposal that the plaintiff should act as secretary and T. as catering manager was not unreasonable. At his instance, a further circular submitted to and orally approved by him and signed by the organisers as "Honorary Organisers," was printed and issued in March, 1933. As a result, 150 more persons gave the scheme support. They were preparing to send out more letters when the defendant requested them to cease as he was satisfied with the response obtained. He announced that he intended to form a limited company for the purposes of the club, but refused to give the organisers a written agreement, and said that he had promised them suitable employment and it would be so. In April, 1933, the defendant refused to give the plaintiff any details of the company, but stated that the remuneration of the organisers would commence on the opening of the club. In May, 1933, the company was registered without the approval of the organisers. When the club was opened, the defendant refused to procure the plaintiff any employment in its administration. Lord Hewart, C.J., held that there was a relation of confidence between the parties which the defendant had violated. He awarded the plaintiff £500 damages.

SLESSER, L.J., dismissing the appeal, said that the learned judge was entitled to come to the conclusion that a fiduciary relationship existed (see *Morison* v. *Moat*, 9 Hare 241, at p. 255, and *Billage* v. *Southee*, 9 Hare 534, at p. 540). If an understanding existed that the plaintiff was to be associated with the club in a remunerative capacity damages could be awarded.

ROCHE, L.J., and SWIFT, J., agreed.

COUNSEL: *Schiller*, K.C., and *Cartwright Sharp*, K.C.; *Lord Erleigh*, K.C., and *W. H. Moresby*.

SOLICITORS: *Bartlett & Gregory*; *Haslewood, Hare & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Appeals from County Courts.

Deen *v.* Davies.

Slesser and Romer, L.JJ., and Singleton, J.
4th and 5th April, 1935.

NEGLIGENCE—ACCIDENT—HORSE—INSECURELY TIED IN STABLE—ESCAPE INTO PUBLIC ROAD—INJURY CAUSED TO CRIPPLE—LIABILITY.

Appeal from Merthyr Tydfil County Court.

The defendant, a farmer, having ridden a pony, an animal which exhibited no savage or dangerous propensities, into Merthyr Tydfil, tied it in a stable and left it. The pony, being insecurely tied, escaped into the street and in trotting home passed near the plaintiff, a cripple, who, in trying to avoid it, fell and sustained injuries. In an action for damages, the County Court judge held that the defendant had been guilty of negligence and gave judgment for the plaintiff.

SLESSER, L.J., dismissing the appeal, said that there were circumstances in which it was negligent to leave a horse unattended on the highway (*Haynes* v. *G. Harwood & Son* [1935] 1 K.B. 153; *Gayler & Pope Ltd.* v. *B. Davies & Son Ltd.* [1924] 2 K.B. 75; *Tolhausen* v. *Davies*, 57 L.J., Q.B. 392; *Snee* v. *Durkie*, 6 F. 42). But the defendant had argued that the owner or occupier of land was not responsible if horses, cattle or other tame animals got on the highway by reason of the absence of hedges. However, there was an exception in the case of animals known to be of a vicious propensity (*Chasemore* v. *Richards*, 7 H.L.C. 349) and, apart from this, a particular duty may arise from the circumstances of a particular case. The owner of a tame animal owes a duty to take care that it shall not cause injury (*Fardon* v. *Harcourt-Rivington*, 146 L.T. 391, at p. 392; *Sycamore* v. *Ley*, 147 L.T. 342, at p. 345). In this case, the defendant tethered the animal in anticipation of all the risks which might arise from its not being tethered and, in doing so insecurely, he failed to guard against the dangers which persons in the street might run. Though there was normally a right to bring a horse upon the highway, particular circumstances might render the act negligent (*Turner* v. *Coates* [1917] 1 K.B. 670, at p. 674). In *Hadwell* v. *Righton* [1907] 2 K.B., at p. 349, Bray, J., said: "In the absence of anticipated danger, there is no room for the suggestion of negligence." Here there was danger which was or ought reasonably to have been anticipated, that of the animal getting loose through improper tethering and, being unattended on the highway, causing danger.

ROMER, L.J., and SINGLETON, J., agreed.

COUNSEL: *J. D. Davies*; *Morrison*, K.C., and *D. Parsons*.

SOLICITORS: *Beamish, Hanson, Airy & Co.*, agents for *Taliesin Griffiths & Son*, of Merthyr Tydfil; *John Vaughan & Son*, of Merthyr Tydfil.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Cunningham *v.* Shackleton.

Slesser and Romer, L.JJ., and Singleton, J. 9th April, 1935.

SPECIFIC PERFORMANCE—CONTRACT FOR SALE OF LEASEHOLD—UNDERLEASE—OTHER PROPERTY COMPRISED IN ORIGINAL DEMISE—WHETHER DESCRIPTION SUFFICIENT.

Appeal from Harrogate County Court.

In 1886 a lease for 999 years of a plot of ground was granted, the rent reserved being £225. Forty houses were subsequently erected thereon, and in 1893 the lessee granted an underlease of two of them for the unexpired portion of a term of 999 years, less seven days, at a rent of £12 5s. The underlessee subsequently mortgaged both of them, and in 1927 a transferee of the mortgagees, in exercise of his power of sale, sold one of the houses to the predecessor in title of the plaintiff, the rent being apportioned. The plaintiff, having acquired the house, agreed in 1934 to sell his interest to the defendant, the particulars of sale describing it as leasehold. The defendant, having paid a deposit, repudiated the contract on the grounds that there was nothing to show sufficiently that it was an underlease which was being sold or that it was so associated with other underleases that a purchaser might incur forfeiture through the acts of persons over whom he had no control. His Honour Judge Stewart directed specific performance, and held that a good title had been shown.

SLESSER, L.J., allowing the appeal, said that, with regard to the nature of the description to which a purchaser was entitled, the test was not what a lawyer would understand by the language used, but what an ordinary man would understand (see *Russ and Brown's Contract* [1934] 1 Ch. 34). By this test it was clear that what was being sold was an underlease, the particulars stating that the property was held "for the unexpired portion of a term of 999 years, except the last

seven days thereof." However, as to the question whether the particulars showed that the underlease was involved with other underleases, the contention of the appellant was right. Although the property was described as "subject to an apportioned yearly rent of £6 2s. 6d.," this only referred to an apportionment of a ground rent which was divided into two portions, whereas it formed part of an estate on which some forty houses were built. Several of the covenants in the original lease were very onerous and breach of any one of them might bring about a forfeiture. On the authority of *Darlington* v. *Hamilton*, 1 Kay 550, at p. 558, and *In re Lloyd's Bank Ltd. and Willington's Contract* [1912] 1 Ch. 609, specific performance could not be ordered. The number of persons involved increased the risks in this case, and simply to tell the purchaser that the property to be sold formed part of a wider lease did not give him sufficient particularity.

ROMER, L.J., and SINGLETON, J., agreed.

COUNSEL: *Frederick Beaton; Cleworth.*

SOLICITORS: *Herbert Atkinson*, of Harrogate; *Kenneth Brown, Baker, Baker*, agents for *Whitelock & McCandlish*, of Harrogate.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

Ridley *v.* Lee.

Luxmoore, J.

18th and 19th December, 1934, 14th January and 1st April, 1935.

VENDOR AND PURCHASER—JOINT TENANTS—CONVEYANCE TO ONE OF THEIR NUMBER—BUILDING SCHEME—RESTRICTIVE COVENANTS—VALIDITY—LAW OF PROPERTY ACT, 1925 (15 Geo. 5, c. 20), s. 82.

In 1906, Betts, Hall and Sole, being tenants in common of certain property at Coulsdon, offered it for sale by auction in fifty-one lots. Under the terms of the conditions of sale, it was laid out with the object of being developed as a building estate. They provided (*inter alia*) that "not more than two dwelling-houses . . . shall be erected on any one plot," and there were other restrictions. No sale resulted, but in February, 1907, the three tenants in common sold to one of their number, Betts, several of the lots comprised in the auction. The conveyances contained certain covenants entered into between Betts as one of the vendors and Betts as purchaser, the habendum being expressed to be "subject . . . to the covenants by the purchaser hereinafter contained." The purchaser covenanted for himself, his heirs and assigns "with the vendors, their and each of their heirs, executors, administrators and assigns (owners for the time being of any of the lands now or formerly part of the vendors' estate of which the said hereditaments form part and so that every person for the time being entitled to any estate in any such lands shall have a right to the observance and fulfilment of the stipulations in Part 2 of the said Second Schedule . . .) that the stipulations last aforesaid shall be observed . . . Provided, nevertheless, that as between the vendors and the purchaser and the owner or owners for the time being of any part of the said estate, the vendors shall be at liberty at any time hereafter to alter, modify, release or dispense with any of the stipulations set out in Part 2 of the said Second Schedule hereto and to lay out or deal with the remainder or any part thereof in such manner as they or any or either of them shall think fit." The stipulations referred to were similar to those set out in the conditions of sale. In July, 1907, Hall, Sole and Betts conveyed a further part of the property to the plaintiff, the conveyance containing similar covenants and a similar proviso. He had been informed that Betts had purchased part of the same estate subject to the same restrictions. In 1908 and 1909, the remainder of the estate was sold without any restrictive covenants or stipulations. Thereafter Betts sold to divers purchasers various portions of the land conveyed to him in 1907, sometimes without mention of the restrictive covenants and sometimes expressed to be subject to them. Finally, in 1933, he conveyed part of one of the lots to the defendant, Lee, guaranteeing that the stipulations had ceased to apply to the property sold. The purchaser having proceeded to erect four houses on this land, the plaintiff sought an injunction to restrain him on the ground of the existence of a building scheme.

LUXMOORE, J., in giving judgment, said that the restrictions in the conditions of sale of 1906 were consistent only with the intention of developing the land as a building estate. The conveyances of 1907 were made on the footing that the restrictions were for the benefit of the other lots included in the scheme and, assuming those covenants to be valid, they could have been enforced in respect of the lands included in the conveyances, though the scheme was abandoned so far as the rest of the land was concerned under the general power reserved to the vendors. But in the conveyances of February, 1907, Betts had covenanted with himself jointly with two other persons; the covenants could not be treated as joint and several because covenants with the other two vendors alone would not create the necessary mutual obligation. Such covenants were void: *Ellis* v. *Kerr* [1910] 1 Ch. 529. Therefore, there were no restrictive covenants in existence when the plaintiff purchased in 1907, and no building scheme ever came into existence. The defect was not cured by s. 82 of the Law of Property Act, 1925. The action must be dismissed.

COUNSEL: *G. D. Johnston; Harman*, K.C.

SOLICITORS: *Ward & Melliar Smith; Joynson-Hicks & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Danneberg *v.* White Sea Timber Trust, Ltd.

Branson, J. 10th April, 1935.

CHARTERPARTY—NEW ICE CLAUSE—CONSTRUCTION—CONTINUOUS ICE-BREAKER ASSISTANCE.

The construction of a new ice-breaking clause framed for insertion in the Chamber of Shipping Baltic Wood Charter, 1926, was considered in this special case stated by an umpire in an arbitration. To remedy difficulties which had arisen as the result of decisions on the construction of a former ice-breaking clause the following new clause had been drawn up: "(1) In the event of the port of loading being inaccessible by reason of ice or in case ice sets in after vessel's arrival at port of loading the charterers undertake to arrange for the provision by the port authorities of ice-breaker assistance if required by the captain free of expense to the steamer, the steamer complying with official instructions and rules issued by the authorities concerning ice-breaker assistance . . . (2) Ice-breaker assistance to be rendered free of expense to the steamer within 48 hours of receipt by the captain of the port (at loading port) of master's or owner's notification of arrival at the edge of ice, or, when leaving port, 48 hours after notification by the master of readiness to leave. (3) Time lost by the vessel in waiting for ice-breaker assistance at the edge of ice and when leaving the loading port in excess of the time provided in Clause 2 to count as demurrage and/or detention. (4) Charterers shall not be responsible for any loss of time during passage through the ice and/or any loss or damage caused to the steamer by ice or for any detention on passage through ice." The umpire held that there was an unqualified undertaking to arrange for the provision by the port authority of ice-breaker assistance if required, within the meaning of the decision of the House of Lords in *Ugleexport Charkow* v. *Owners of S.S. Anastasia* (50 T.L.R. 361), that was, that the assistance must not be casual or intermittent.

BRANSON, J., held that the words "ice-breaker assistance" in the present case bore the meaning which they bore in the

Anastasia Case, supra, and that the ice-breaker assistance must be reasonably continuous from the moment when the ship entered the ice. It was argued that the undertaking in this case, "to arrange for the provision," of ice-breaker assistance was different from the undertaking in the former cases to "provide" ice-breaker assistance, but in his view there was no distinction. In either case it was a contract that ice-breaker assistance should be provided, and the umpire had found that in fact the assistance was not provided. It was contended for the charterers that whether ice-breaker assistance was provided or not s. 4 of the present ice clause applied and relieved them from liability, but s. 1 imposed the obligation and s. 4 was an exceptions clause, and he held, on the principle laid down in the *Cap Palos* ([1921] P. 458), that it only operated while the primary obligation imposed by s. 1 was being carried out. Award in favour of the shipowners affirmed.

COUNSEL: *H. I. P. Hallett*, for the charterers; *Cyril Miller*, for the shipowners.

SOLICITORS: *Pettite, Kennedy, Morgan, and Broad; William A. Crump & Son.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Rex *v.* Monmouthshire County Council: *Ex parte* Smith and Another.

Lord Hewart, C.J., Avory and Humphreys, JJ.
30th April, 1935.

LOCAL GOVERNMENT—EDUCATION—APPLICATION FORMS FOR BURSARIES—NOT OPEN TO INSPECTION—NOT "VOUCHERS"—LOCAL GOVERNMENT ACT, 1933 (23 & 24 Geo. 5, c. 51), s. 224 (1).

Rule *nisi* calling on the Monmouthshire County Council to show cause why a writ of *mandamus* should not issue commanding them to permit B. L. Phillips, an accountant, practising at Cardiff, on behalf of two clients, who were ratepayers and electors of the county, to inspect the application forms containing particulars of the income of parents or guardians of persons for whom bursaries were provided by the council during the financial year ended the 31st March, 1934, on the ground that the forms were part of the vouchers relating to the council's accounts within the meaning of s. 224 (1) of the Local Government Act, 1933. By that sub-section: "A copy of every account which is subject to audit by a district auditor, duly made up and balanced, and all rate books, account books, deeds, contracts, accounts, vouchers and receipts relating to the accounts shall be . . . open . . . to the inspection of all persons interested . . ." The applicants contended that forms of application, in which the parents or guardians of students applying for bursaries were required to give particulars of their income, were "vouchers" within the meaning of that section. The respondents said that a voucher was a document authorising or evidencing a payment, and that the forms were merely information supplied to the council, and had nothing to do with any payment subsequently made by way of bursaries, and they refused to produce them on the ground that to do so would be to disclose confidential information.

Lord HEWART, C.J., said that the only category in which it could be suggested that the application forms fell was "vouchers." The documents which it was sought to inspect were forms filled in by the parents or guardians of persons applying for bursaries. Those documents were not vouchers at all. They formed part of the matters on which the council acted in deciding whether to make a grant. The word "voucher" was not wide enough to include that, and, if it were, where was the line to be drawn? In truth, the applicants for the rule had confused two things: the decision of the education committee and the steps previously taken by which that decision had been arrived at. The rule would be discharged.

AVORY and HUMPHREYS, JJ., gave judgments to the same effect.

COUNSEL: *St. John Micklethwait*, K.C., and *A. W. Cockburn*, showed cause; *R. M. Montgomery*, K.C., and *Wilfred Prichard*, supported the rule.

SOLICITORS: *Andrew, Purves, Sutton & Creery*, for *Thomas Hughes*, Newport, Mon.; *Willis & Willis*, for *Gilling and Goodfellow*, Cardiff.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Cotterill *v.* Penn.

Lord Hewart, C.J., Avory and Humphreys, JJ.
17th May, 1935.

BIRDS — HOMING PIGEON — SHOT — MISTAKEN FOR WOOD PIGEON—UNLAWFULLY KILLED—OFFENCE—LARCENY ACT, 1861 (24 & 25 Vict., c. 96), s. 23.

This was an appeal, by case stated, by the informant, Mr. Frank Cotterill, from a decision of the Stourbridge justices, who had dismissed an information preferred by him, under s. 23 of the Larceny Act, 1861, against the defendant, Mr. Joseph Samuel Penn, that on the 11th June, 1934, at Pedmore, Worcestershire, Mr. Penn unlawfully and wilfully killed a pigeon in such circumstances as did not amount to larceny at common law. On the hearing of the information the following facts were proved or admitted: On the 11th June, 1934, about 6 p.m., a Mr. Stanley Millward released a number of homing pigeons in a road near the defendant's garden attached to his private house. The pigeon which was the subject of the charge was released some seconds before the remaining pigeons. Almost immediately after it had been released it was shot by the defendant, who was in his garden for the purpose of shooting woodpigeons and magpies, which had materially damaged his crops. The defendant was not able to see Mr. Millward, and did not know that he was in the road releasing pigeons. There was brilliant sunshine at the time. The pigeon flew between the defendant and the sun, so that he had but little opportunity of judging what kind of pigeon was there. He did not see the pigeon for more than five yards. The defendant honestly thought that he was shooting a wood-pigeon. He picked up the bird and handed it to Mr. Millward very soon after it was shot, and said to him that he was sorry, and that he had mistaken it for a wood-pigeon. He then and there offered to pay its value, but the offer was not accepted. The justices held that the defendant, momentarily seeing one bird by itself flying low, honestly believed that it was a wild bird, and that he killed it really and honestly thinking he was exercising his right of protecting his crops. They accordingly dismissed the information. The informant now appealed.

Lord HEWART, C.J., said that, although s. 23 of the Larceny Act, 1861, used the words "unlawfully and wilfully," in his opinion the element of *mens rea* was not required beyond the point that the facts must show an intention on the part of the person accused to do the particular act forbidden—in the present case, the shooting. It seemed to him (his lordship) quite immaterial that the respondent thought that he was shooting a bird of some kind different from the kind of bird which he in fact did shoot. It was sufficient to say that the present case was covered by *Horton* v. *Gwynne* [1921] 2 K.B. 661. Appeal allowed, and case remitted to the justices with a direction to find that the offence charged was proved.

AVORY and HUMPHREYS, JJ., gave judgments to the same effect.

COUNSEL: *Wilfrid Lewis* for the appellant: *Theodore Turner* for the respondent.

SOLICITORS: *Robbins, Olivey & Lake*, for *Sharpe and Millichip*, West Bromwich; *Hatchett, Jones & Co.*, for *William Waldron & Son*, Brierley Hill.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

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Mr. John Barling Purchase, solicitor, of Redhill, senior partner in Messrs. J. B. Purchase and Clark, solicitors, Pall Mall, S.W., left £159,880, with net personalty £121,444.

Obituary.

Sir HAROLD DOWNER.

Sir Harold George Downer, LL.B., solicitor, Alderman of the City of London and prospective Lord Mayor for 1936-37, died in a nursing home on Friday, 17th May, at the age of sixty-four. The son of Mr. Harold Downer, of Australia, he was educated at Haberdashers' School and London University. He was admitted a solicitor in 1896, having been awarded the Clifford's Inn and John Mackrell Prizes, and became head of the firm of Messrs. Downer & Lewis, of Moorgate, E.C. In 1921 he entered the City Corporation as the representative of Coleman Street Ward. He was appointed a Sheriff of the City of London for 1924-25, when he received the honour of knighthood, and in 1930 he became Alderman of the Ward.

Mr. W. P. JAMES.

Mr. William Price James, High Bailiff of the Cardiff County Court, died at Cardiff on Saturday, 11th May, at the age of eighty. Educated at Uppingham and University College, Oxford, he was called to the Bar by the Inner Temple in 1881. He joined the South Wales Circuit, and was appointed High Bailiff in 1892. He was chairman of the Cardiff and District Branch of the Oxford Society.

Mr. P. C. ATKINS.

Mr. Percy Colquhoun Atkins, B.A., LL.D. Cantab., solicitor, a partner in the firm of Messrs. Kerly, Sons & Karuth, of Austin Friars, E.C., and of Aldershot, died at Croydon on Sunday, 19th May, at the age of seventy-one. Mr. Atkins, who was admitted a solicitor in 1888, was Clerk of Broad Street Ward and Clerk to the Vestry for St. Peter-le-Poor of the united parishes of St. Michael's, Cornhill, St. Peter-le-Poor and St. Benet-Fink.

Mr. E. B. EVANS.

Mr. Edward Brocklebank Evans, solicitor, of the firm of Messrs. George, Davies & Evans, of Cardigan, died recently at the age of forty-eight. Mr. Evans, who served his articles with his uncle, Mr. Henry Davies, of Llandyssul, was admitted a solicitor in 1910. He was clerk and rating officer to the Cemmaes Rural District Council and Steward of the Barony of Cemmaes. He had been Clerk to the Cardigan Board of Guardians and to the Cardigan Rural District Council and the St. Dogmaels Rural District Council.

Capt. H. G. C. CARR-ELLISON.

Captain Herbert George Carr Carr-Ellison, M.A. Cantab., solicitor, a partner in the firm of Messrs. Leadbitter & Harvey, of Newcastle-upon-Tyne, died in a nursing home on Thursday, 16th May, in his sixty-first year. He was educated at Trinity College, Cambridge, and was admitted a solicitor in 1899, and joined the firm of Messrs. Leadbitter & Harvey in 1903, remaining a partner up to his death.

Parliamentary News.

Progress of Bills.

House of Lords.

Chichester Corporation Bill.
Read Third Time. [22nd May.

Derwent Valley Water Board Bill.
Read Second Time. [16th May.

Diseases of Animals Bill.
Read Second Time. [22nd May.

Easington Rural District Council Bill.
Read Second Time. [16th May.

Fylde Water Board Bill.
Read Second Time. [16th May.

Gelligaer Urban District Council Bill.
Read Third Time. [22nd May.

Glamorganshire Canal Company Bill.
Read Third Time. [22nd May.
Glasgow Corporation Order Confirmation Bill.
Read Third Time. [21st May.
Harrogate Corporation Bill.
Read Second Time. [16th May.
London County Council (General Powers) Bill.
Read Second Time. [16th May.
Metropolitan Common Scheme (Palewell) Provisional Order Bill.
Read First Time. [21st May.
Milford Docks Bill.
Read Second Time. [22nd May.
Ministry of Health Provisional Order Confirmation (Croydon) Bill.
Read First Time. [16th May.
Ministry of Health Provisional Order Confirmation (Harrogate) Bill.
Read First Time. [16th May.
Ministry of Health Provisional Order Confirmation (Huntingdon) Bill.
Read First Time. [16th May.
Ministry of Health Provisional Order Confirmation (Metropolis Water) Bill.
Read First Time. [16th May.
Ministry of Health Provisional Order Confirmation (Morley) Bill.
Read First Time. [16th May.
Ministry of Health Provisional Order Confirmation (Ottershaw Joint Hospital District) Bill.
Read First Time. [16th May.
Ministry of Health Provisional Order (Eastbourne) Bill.
Read First Time. [16th May.
Ministry of Health Provisional Order (Guildford) Bill.
Read First Time. [21st May.
Newcastle and Gateshead Waterworks Bill.
Read Third Time. [22nd May.
Nottingham Corporation Bill.
Reported, with Amendments. [16th May.
Port of London Bill.
Reported, with Amendments. [21st May.
Renfrewshire County Council (Lochwinnoch, &c.) Water Order Confirmation Bill.
Read Third Time. [21st May.
Restriction of Ribbon Development Bill.
Read Second Time. [16th May.
Rhyl Urban District Council Bill.
Read Second Time. [22nd May.
Ross and Cromarty (Dornie Bridge) Order Confirmation Bill.
Reported. [21st May.
South Shields Corporation Bill.
Read Second Time. [16th May.
Stirlingshire and Falkirk Water Order Confirmation Bill.
Read Third Time. [21st May.
Stourbridge Navigation Bill.
Reported, with Amendments. [16th May.
West Hampshire Water Bill.
Read Second Time. [16th May.
West Riding of Yorkshire Mental Hospital Board (Superannuation) Bill.
Read Third Time. [22nd May.

House of Commons.

Bury and District Joint Water Board Bill.
Reported, with Amendments. [16th May.
Chichester Corporation Bill.
Read First Time. [22nd May.
Exeter Corporation Bill.
Read Second Time. [21st May.
Finance Bill.
Read Second Time. [21st May.
Frimley and Farnborough District Water Bill.
Read Second Time. [20th May.
Gelligaer Urban District Council Bill.
Read First Time. [22nd May.
Gloucester Corporation Bill.
Read Second Time. [21st May.
Golders Green (Jewish) Burial Ground Bill.
Read Third Time. [20th May.
Housing Bill.
Amendments Considered. [20th May.
Lanarkshire County Council Bill.
Withdrawn. [20th May.
Land Drainage (Great Ouse) Provisional Order Bill.
Read Second Time. [22nd May.
London and North Eastern Railway Bill.
Reported, with Amendments. [16th May.
Metropolitan Common Scheme (Palewell) Provisional Order Bill.
Read Third Time. [20th May.
Metropolitan Water Board Bill.
Reported, with Amendments. [16th May.
Ministry of Health Provisional Order (Guildford) Bill.
Read Third Time. [20th May.
Portsmouth Corporation (Trolley Vehicles) Provisional Order Bill.
Read Second Time. [17th May.
Ross and Cromarty (Dornie Bridge) Order Confirmation Bill.
Read Third Time. [20th May.
Severn Navigation Bill.
Read Second Time. [20th May.
Southern Railway Bill.
Reported, with Amendments. [16th May.
West Riding of Yorkshire Mental Hospitals Board (Superannuation) Bill.
Read First Time. [22nd May.

Questions to Ministers.

WORKMEN'S COMPENSATION.

Mr. TINKER asked the Home Secretary whether he is aware that persons who have had industrial disease are being refused employment when they sign that they have had it; and whether he will consider amending s. 9 (4) of the Workmen's Compensation Act so as to make it clear that the word injury includes disease, so as to enable those who are unable to get employment through having had an accident or industrial disease shall be treated the same.

Sir J. GILMOUR: I am aware that colliery owners often refuse employment to men who have had nystagmus, but, as explained in previous replies, the issue is by no means a simple one, and in my opinion a full inquiry into this and other questions connected with the payment of compensation for this disease would be necessary before any amendment of the law could be usefully considered. [16th May.

CORONERS' COURTS (INQUIRY).

Mr. TINKER asked the Home Secretary whether he is in a position to say when the committee he has set up to inquire into the general administration of coroners' courts will issue a statement of their inquiries; and whether he can give any information as to what organisation of workmen the committee will ask for evidence.

Sir J. GILMOUR: The committee is engaged in taking evidence, and is not yet in a position to indicate when its report will be available. I am informed that the committee is in consultation with the Trade Union Congress General Council about the evidence to be heard on behalf of trade unions. [16th May.

FIXED TRUSTS.

Mr. REMER asked the President of the Board of Trade whether he can now report what result has developed from consultations by the Board of Trade with the committee of the Stock Exchange, designed to prevent concealment under the title of a limited liability company of the names of persons who receive fees and/or profits as managers of fixed trusts in respect of which subscriptions are invited by them from the public.

Mr. RUNCIMAN: I am informed that the matter is still engaging the attention of the committee of the Stock Exchange. [21st May.

BREACH OF PROMISE ACTIONS.

Mr. LIDDALL asked the Attorney-General whether in view of the fact that it is not in the public interest that any action should lie for breach of promise alone, he will consider the reform of the breach of promise law in order that in future the onus will be placed on the complainant of proving, not only that a breach has occurred but that it has inflicted specific damage other than mere disappointment of expectations or loss of affection.

Mr. GOLDIE asked the Attorney-General whether he is prepared to introduce legislation with a view to the abolition of actions for breach of promise of marriage other than cases in which it is alleged that there has been seduction in reliance on such promise or where a period of not less than ten years has elapsed between the date of the alleged promise and the date of the alleged breach.

THE ATTORNEY-GENERAL (Sir Thomas Inskip): In the present state of Parliamentary business, I regret there is no possibility of passing into law any proposals with regard to this matter, as to which there are sharp differences of opinion.

Mr. GOLDIE: Does my right hon. and learned Friend not regard the matter as of sufficient importance to refer it to the Select Committee on Law Reform which is now sitting?

THE ATTORNEY-GENERAL: I will call the attention of my noble Friend the Lord Chancellor to my hon. and learned Friend's suggestion. [21st May.

Societies.

Middle Temple.

DINNER TO DOMINION AND COLONIAL MINISTERS.

The Treasurer, Sir Lynden Macassey, K.B.E., K.C., and the Masters of the Bench of the Honourable Society of the Middle Temple, gave a dinner on Tuesday, 21st May, in the Middle Temple Hall, in honour of the Prime Ministers and other Ministers of the Dominions and Northern Ireland, and the Governors of the Colonies now in London for the Silver Jubilee Celebrations, and their High Commissioners.

The Rt. Hon. Ramsay MacDonald had arranged to attend the dinner, but at the last moment was not able to be present, and the Rt. Hon. Stanley Bruce, who had also intended to be present, had to leave London for Geneva to attend the Council Meeting of the League of Nations.

According to the tradition of the Middle Temple there are "No Speeches" at dinner in Hall, but after the toast of the King had been honoured, the toast of "Our Dominion and Colonial Guests" was given by the Treasurer, and was received enthusiastically by all present in the Hall, which was filled to its utmost capacity. On the passing out of Hall after dinner of the customary procession from the High Table, the guests were given a great ovation by the "Hall."

To conform to the Middle Temple tradition of "No Speeches," each guest was given a short account in print of the close connection which from Elizabethan days onward existed between the Middle Temple and the early Colonies of England. In it was described the formation in 1584 by Middle Templars under Royal Charter of "The Colleagues of the Fellowship for the Discovery of the North West Passage." The guests were shown the table at which students, when called to the Bar at the Middle Temple, sign the roll of members of the Inn, made out of the timber of the ship of the great Middle Templar, Sir Francis Drake, who immediately on his return from his "circumnavigation of the world," went straight on 4th August, 1586, to "his old friends in the Middle Temple Hall." They were also told of how Sir Walter Raleigh had organised in the Middle Temple Hall some of his expeditions for the colonisation of Virginia, and of the first meeting in the Hall for the formation of the Virginia Company organised by the Middle Templar Sir John Popham, afterwards Lord Chief Justice. The description included the parts played by many Middle Templars in the events leading up to the American War of Independence, notably by Peyton Randolph, who presided over the First Continental Congress which drew up the Statement of Rights, and by the five Middle Templars, Edward Rutledge, Thomas Heyward, Jr., Thomas McKean, Thomas Lynch, Jr., and Arthur Middleton, whose signatures are on the "Declaration of Independence," and also by John Rutledge, who later took a leading part in the drawing up of the American Constitution, which was signed by three members of the Middle Temple, John Rutledge, Jared Ingersoll and William Livingston.

The guests included The Rt. Hon. J. A. Lyons, M.P. (Prime Minister and Treasurer of the Commonwealth of Australia), The Rt. Hon. G. W. Forbes, M.P. (Prime Minister of New Zealand), The Hon. J. B. M. Hertzog, M.P. (Prime Minister of the Union of South Africa), The Hon. G. M. Huggins, M.P. (Prime Minister of Southern Rhodesia), The Rt. Hon. Viscount Craigavon (Prime Minister of Northern Ireland), The Rt. Hon. Sir John Simon, G.C.S.I., K.C.V.O., K.C., M.P. (Secretary of State for Foreign Affairs), The Hon. Sir Philip Cunliffe-Lister, G.B.E., M.C., M.P. (Secretary of State for the Colonies), The Hon. R. G. Menzies, K.C., M.P. (Attorney-General and Minister for Industry, Commonwealth of Australia), The Hon. Patrick Duncan, C.M.G., K.C. (Minister of Mines, Union of South Africa), The Rt. Hon. J. G. Coates, M.P. (Minister of Finance, New Zealand), The Hon. G. Howard Ferguson, K.C. (High Commissioner of Canada), Sir James Parr, K.C.M.G. (High Commissioner for New Zealand), Mr. C. te Water (High Commissioner for the Union of South Africa), Mr. J. W. Dulanty, C.B., C.B.E. (High Commissioner for the Irish Free State), Mr. S. M. L. O'Keefe (High Commissioner for Southern Rhodesia), The Hon. R. L. Butler, M.P. (Premier, South Australia), The Hon. A. G. Ogilvie, K.C., M.P. (Premier, Tasmania), Brig.-General Sir Joseph Byrne, G.C.M.G., K.B.E., C.B. (Governor of Kenya), The Hon. J. H. Gaha, M.L.C. (Minister for Health, Tasmania), Sir Murchison Fletcher, K.C.M.G., C.B.E. (Governor Fiji and High Commissioner Western Pacific), Sir Claud Schuster, G.C.B., C.V.O., K.C., The Hon. Sir Fraser Russell (Chief Justice, Southern Rhodesia), Sir Campbell Stuart, K.B.E. and Rear-Admiral Arthur Bromley, C.M.G.

The members of the Bench of the Honourable Society of the Middle Temple present were:—

The Master Treasurer (Sir Lynden Macassey, K.B.E., K.C., His Honour Judge Ruegg, K.C., The Rt. Hon. Sir Ellis Hume-Williams, Bart., K.B.E., K.C., The Hon. Mr. Justice Horridge, The Rt. Hon. Viscount Sankey, G.B.E., Leslie De Gruyther, Esq., K.C., The Rt. Hon. Edward Shortt, K.C., St. J. G. Micklethwait, Esq., K.C., Heber L. Hart, Esq., K.C., The Hon. S. O. Henn Collins, C.B.E., K.C., Sir Patrick Hastings, K.C., A. M. Dunne, Esq., K.C., Sir H. S. Cautley, Bart., K.C., M.P., J. M. Gover, Esq., K.C., J. Bruce Williamson, Esq., His Honour Judge Dumas, S. J. Bevan, Esq., K.C., M.P., A. M. Sullivan, Esq., K.C., W. E. Vernon, Esq., A. T. Miller, Esq., K.C., The Rt. Hon. Viscount Rothermere, J. Scholefield, Esq., K.C., The Rt. Hon. Sir William Jowitt, K.C., W. Craig Henderson, Esq., K.C., J. D. Cassels, Esq., K.C., M.P., Sir Edward Tindal Atkinson, K.C.B., C.B.E., J. C. Jackson, Esq., K.C., M.P., The Rt. Hon. A. B. Babington, K.C., M.P., The Rt. Hon. Sir Ian Macpherson, Bart., K.C., M.P., J. Bowen Davies, Esq., K.C., J. M. Paterson, Esq., Col. Sir Henry F. MacGeagh, K.B.E., K.C., The Hon. Mr. Justice du Parcq, His Honour Judge Lilley, The Rt. Hon. Sir Thomas Molony, Bart., His Excellency The American Ambassador, E. A. Digby, Esq., K.C., Col. John Buchan, C.H., together with The Rev. Canon Harold Anson (The Master of the Temple), The Rev. J. F. Clayton, M.C. (Reader at the Temple Church) and The Under Treasurer (Mr. T. F. Hewlett).

Inner Temple.

GRAND DAY.

Wednesday, 22nd May, being Grand Day of Easter Term at the Inner Temple, the treasurer (Mr. A. M. Langdon, K.C.) and the Masters of the Bench entertained at dinner the following guests: Viscount Cobham, Lord Russell of Killowen, Lord Horder, General Sir Ian Hamilton, General Sir Archibald Montgomery-Massingberd, Sir Robert Vansittart, Sir William Llewellyn (President of the Royal Academy of Arts), Sir Hugh Allen, the Master of the Temple, Judge Burgis, Mr. A. T. Miller, K.C., Dr. C. K. Allen, Mr. Edgar W. Record, Mr. Geoffrey Langdon, Mr. A. P. Herbert, Mr. Walter De la Mare, the Reader and the Sub-Treasurer.

The following Masters of the Bench were also present: Sir Francis Taylor, K.C., Mr. Justice Avory, Sir Lancelot Sanderson, the Master of the Rolls, Mr. A. W. Bairstow, K.C., the Lord Chief Justice, Mr. Alexander Grant, K.C., Mr. Justice Branson, Sir Leslie Scott, K.C., Mr. T. Hollis Walker, K.C., Sir Walter Clode, K.C., Mr. F. P. M. Schiller, K.C., Sir Duncan Kerly, K.C., Sir Benjamin Cohen, K.C., Mr. R. M. Montgomery, K.C., Lord Macmillan, Lord Justice Slesser, Mr. R. F. Bayford, K.C., Mr. C. M. Pitman, K.C., Mr. H. St. J. D. Raikes, K.C., Mr. Justice Singleton, Mr. Justice Goddard, Mr. Wilfrid Lewis, Mr. M. J. L. Beebee, Mr. S. R. C. Bosanquet, K.C., Mr. W. O. Willis, K.C., Mr. C. Paley Scott, K.C., the Archbishop of Canterbury, Mr. Charles Doughty, K.C., Mr. C. N. Tindale Davis, Mr. Norman Birkett, K.C., Sir Edwin Deller, Mr. Roland Oliver, K.C., Mr. C. T. Le Quesne, K.C., Mr. C. B. Marriott, K.C., Mr. Victor Russell and Mr. Valentine Holmes.

City of London Solicitors' Company.

The Master, The Hon. E. G. ELIOT, took the chair at the annual general meeting of this Company, held at Guildhall on the 15th May.

The annual report, which was laid before the meeting, showed that the Company has now been in existence for twenty-six years. It performs many useful services to the solicitors' profession in the City, notably that of keeping in close touch with the Council of The Law Society, and of giving its members opportunities for meeting one another socially. The past year has not been eventful, but the Company has consolidated its position and thirty-three new members have joined. The banquet given at the Mansion House on the 21st February was attended by nearly 300 members and guests, and a sherry party held at The Salters' Hall in November enabled members and their ladies to make one another's acquaintance and to renew old friendships. The Court of the Company is drawing up for the Royal

Commission a report on the despatch of business at common law; a member will attend to give evidence if invited.

Mr. ELIOT, in moving the adoption of the report, remarked that the Company was no longer merely a growing lad; it had passed its jubilee and come to man's estate. It had avoided the risk which attends the foundation of any company: that when the founders' enthusiasm has waned the company may languish. Having passed this dangerous age, it was now in robust health. If it could be assessed for a life insurance policy, the premium would be extremely low. He placed a high value on its social activities, explaining that the more closely the members knew each other the more smoothly their work would run and the better their clients and the honour of their profession would be served. He regretted the retirement of Mr. C. B. Matthews from the office of clerk, and welcomed Mr. Arthur Francis Bell, of Messrs. Scott, Bell & Co., as a worthy member of an already distinguished line of clerks.

Mr. STANLEY CROSSE, on behalf of the junior members, expressed their appreciation of the hospitality of the Court, which, in accordance with custom, had again this year entertained some of them to dinner at The Salters' Hall. He suggested that the Company should apply to be made a Livery Company, pointing out that the Master Mariners had succeeded in attaining this distinction.

A vote of thanks to the Master for presiding was proposed by Mr. E. Burrell Baggallay and seconded by Mr. F. M. Guedella.

The Law Society.

ANNUAL GENERAL MEETING.

The annual general meeting of the members of The Law Society will be held in the Hall of the Society on Friday, 5th July, at 2 p.m.

PROVINCIAL MEETING.

The provincial meeting of The Law Society will be held this year at Hastings, on Tuesday and Wednesday, 24th and 25th September. Particulars of the arrangements will be circulated to members at a later date.

Law Students' Debating Society.

The annual meeting of the Society was held at The Law Society's Court Room on Tuesday, 14th May (Chairman, Mr. P. W. Iliff). The reports and accounts were laid before the meeting and the officers and the committee for the ensuing session were elected.

The Hardwicke Society.

A meeting of the Society was held on Friday, 17th May, at 8.15 p.m., in the Middle Temple Common Room, the President (Mr. A. Newman Hall) in the chair. Mr. J. A. Petrie moved: "That the observance of international obligations can best be secured by an international agreement for applying sanctions." Mr. J. H. Penson opposed. There also spoke: Mr. T. H. Mayers (Hon. Treasurer), The Hon. F. P. Howard (Hon. Secretary), Mr. Sturge, Mr. Sweeney, Mr. H. K. Sadler, Mr. A. P. McNabb, Mr. Butler, Mr. Llewellyn Thomas. The hon. mover having replied, the house divided, and the motion was lost by two votes.

Legal Notes and News.

Honours and Appointments.

The King, on the recommendation of the Home Secretary, has been pleased to approve the following appointments: Mr. NEVILLE LASKI, K.C., to be Recorder of Burnley in the place of Mr. N. B. GOLDIE, K.C., who has been appointed Recorder of Manchester; Mr. EDWARD TERRELL to be Recorder of Newbury in the place of Mr. Francis FitzGerald, who has resigned. Mr. Laski was called to the Bar by the Inner Temple in 1913, and took silk in 1930. Mr. Terrell, who was called to the Bar in 1924, is a member of Gray's Inn and of Middle Temple.

The India Office announces that the King has been pleased to approve the appointment of Mr. ALBERT SORTAIN ROMER MACKLIN, I.C.S., as a Puisne Judge of the High Court of Judicature at Bombay in the vacancy which will occur on 13th June next on the retirement of Mr. Justice Murphy.

Professional Announcements.

(2s. per line.)

SOLICITORS & GENERAL MORTGAGE & ESTATE AGENTS ASSOCIATION.—A link between Borrowers and Lenders, Vendors and Purchasers.—Apply, The Secretary, Reg. Office: 12, Craven Park, London, N.W.10.

Notes.

Sir Felix Brunner has joined the executive committee of the Bribery and Secret Commissions Prevention League, Incorporated.

Mr. D. N. Pritt, K.C., has tendered his resignation as prospective Labour candidate for Sunderland to the local party executive.

Mr. Justice Langton, one of the linguists of the Bench, interpreted the evidence of a German woman who told her story in her own tongue in the Divorce Court recently.

The annual dinner of the Land Agents' Society (incorporated by Royal Charter) will be held at the Park Lane Hotel on Thursday, 27th June, when Sir Archibald Weigall will preside.

The search rooms of the Public Record Office will be closed for cleaning from 16th to 21st September inclusive. Special arrangements will be made for the transaction of urgent legal business.

The directors of the Liverpool and London and Globe Insurance Company have re-elected Mr. Arthur E. Pattinson as chairman, and Mr. A. Kentish Barnes, Mr. P. R. England, and Mr. Evelyn S. Parker as deputy-chairmen of the company.

The report of the Society of Incorporated Accountants and Auditors for 1934 states that new members during that year numbered 329, and fifty-one associates were advanced to Fellowship. The total membership on 31st December last was 6,384.

Bromley (Kent) is to have two new courts—one for county court and the other for police court purposes. Owing to the growth of the district the accommodation at the present court house, which is used for police court and county court purposes, has been insufficient for a long time past.

The receipt of the letters patent conveying the grant by the King of the dignity of Lord Mayor on the chief magistrate of the City of Plymouth, in commemoration of the Silver Jubilee, was formally acknowledged at a special meeting of Plymouth City Council on Thursday, 9th May.

The twenty-seventh annual issue of the "Stock Exchanges Ten-year Record," published by Fred. C. Mathieson and Sons, price 20s. net, is now available. In the Record are given highest and lowest market quotations for the period 1925–34 inclusive, together with dividend payments during that time.

Mr. Charles F. Monckton is retiring for reasons of health from his position as Clerk to the Court of Lieutenancy of the City of London. He was admitted a solicitor in February, 1887. In 1894 he became clerk to the Justices of the City of London in Special Sessions and in 1900 Clerk to the Lieutenancy.

The following announcement was issued from Scotland Yard last Monday: "On the recommendation of the Commissioner of Police of the Metropolis the Secretary of State has approved of Colonel The Hon. Maurice Drummond, Assistant Commissioner, having the status of Deputy Commissioner with effect from 20th May."

Modern developments in housing in many European countries will be studied by members of the Garden Cities and Town Planning Association during a tour which has been arranged for June and July. The tour, which starts from London on 14th June, has been organised jointly with the International Union of Local Authorities.

The German Supreme Court, in dismissing the appeal of two foster-parents against the termination of a contract of adoption by a local welfare authority, because it had become known that the foster-father was of "non-Aryan" descent, has ruled that the upbringing of a foster-child to be a German man or woman is only guaranteed when both foster-parents are "Aryans."

A Select Committee of the House of Lords, with Lord Askwith as chairman, had before it last Wednesday the London Building Act (Amendment) Bill, by which the L.C.C. seek power to establish a modern code of building bye-laws. It was announced that an agreement had been reached with the district surveyors, who wished their position to be protected. The Committee allowed the Bill to proceed.

The following days and places have been fixed for holding the Summer Assizes on the South Wales Circuit: Mr. Justice MacKinnon.—Thursday, 6th June, at Haverfordwest; Monday, 10th June, at Lampeter; Wednesday, 12th June, at Carmarthen; Tuesday, 18th June, at Brecon; Thursday, 20th June, at Presteign. Mr. Justice Talbot and Mr. Justice MacKinnon.—Saturday, 29th June, at Swansea.

The May Session of the Central Criminal Court was opened last Tuesday at the Sessions House, Old Bailey, before the Lord Mayor, Sir Stephen Killik. There were also present on the bench the Recorder of London (Sir Holman Gregory, K.C.), Sheriff Mr. J. S. Pearse, Under-Sheriff Mr. C. F. J. Jennings, the Secondary, Mr. W. N. Earle, and Alderman Lord Ebbisham. The calendar contained the names of fifty-three persons for trial or sentence.

The Council of The Law Society have passed the following resolution, which has been sent to the Minister of Health: "That in the opinion of the Council of The Law Society the powers of local authorities to lend money for house purchase should be limited in amount to the value of working-class dwellings, say £500, it being in the opinion of the Council a mistake to utilise public credit to compete with other agencies, provided those agencies can offer the necessary facilities."

The Magistrates' Association has issued a small volume intended to acquaint newly-appointed magistrates with the outlines of their work. Under the title "Notes for New Magistrates," the book explains clearly the difference between indictable and non-indictable offences; the procedure of the Courts of Summary Jurisdiction in dealing with cases summarily and with those that are to be committed for trial at the Assizes or Quarter Sessions; and gives a useful outline on that branch of the law which is most technical in application —the Rules of Evidence. It has also an introduction by the Lord Chancellor, who says: "The Magistrates' Association has met a real need by the publication of this little book."

NOTICE TO CONTRIBUTORS.

The Editor will be pleased to consider for publication contributions and correspondence from any professional source upon matters of legal interest.

All contributions (including correspondence) should be typewritten and on one side of the paper only, and must be accompanied by the name and address of the contributor.

The Editor is unable to accept any responsibility for the safe custody of contributions submitted to him, and copies should therefore be retained. The Editor will, however, endeavour in special circumstances to return unsuitable contributions within a reasonable period, if a request to this effect and a stamped addressed envelope are enclosed with the manuscript.

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Court Papers.

Rota of Registrars in Attendance on

Date.	Emergency Rota.	Appeal Court No. 1.	Group I. Mr. Justice Eve. Witness Part II.	Group I. Mr. Justice Bennett. Non-Witness
	Mr.	Mr.	Mr.	Mr.
May 27	Ritchie	Hicks Beach	Hicks Beach	Jones
„ 28	Blaker	Andrews	*Blaker	Hicks Beach
„ 29	More	Jones	Jones	Blaker
„ 30	Hicks Beach	Ritchie	*Hicks Beach	Jones
„ 31	Andrews	Blaker	Blaker	Hicks Beach
June 1	Jones	More	Jones	Blaker
	Group I. Mr. Justice Crossman. Witness. Part I.	Mr. Justice Clauson. Witness Part I.	Group II. Mr. Justice Luxmoore. Non-Witness	Mr. Justice Farwell. Witness. Part II.
Date.				
	Mr.	Mr.	Mr.	Mr.
May 27	*Blaker	*Andrews	More	*Ritchie
„ 28	*Jones	*More	Ritchie	Andrews
„ 29	*Hicks Beach	*Ritchie	Andrews	*More
„ 30	*Blaker	Andrews	More	Ritchie
„ 31	Jones	*More	Ritchie	*Andrews
June 1	Hicks Beach	Ritchie	Andrews	More

* The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 30th May, 1935.

	Div. Months.	Middle Price 22 May 1935.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	117	3 8 5	2 18 9
Consols 2½%	JAJO	90	2 15 7	—
War Loan 3½% 1952 or after	JD	106¾	3 5 7	3 0 2
Funding 4% Loan 1960-90	MN	118	3 7 10	2 19 4
Funding 3% Loan 1959-69	AO	104½	2 17 5	2 14 11
Victory 4% Loan Av. life 29 years	MS	116½	3 8 8	3 2 6
Conversion 5% Loan 1944-64	MN	122	4 2 0	2 1 6
Conversion 4½% Loan 1940-44	JJ	114	3 18 11	1 15 3
Conversion 3½% Loan 1961 or after	AO	109	3 4 3	2 19 10
Conversion 3% Loan 1948-53	MS	106¾	2 16 2	2 7 9
Conversion 2½% Loan 1944-49	AO	103¼	2 8 5	2 1 10
Local Loans 3% Stock 1912 or after	JAJO	98	3 1 3	—
Bank Stock	AO	371½	3 4 7	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	93	2 19 2	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	98½	3 0 11	—
India 4½% 1950-55	MN	113½	3 19 4	3 6 11
India 3½% 1931 or after	JAJO	98	3 11 5	—
India 3% 1948 or after	JAJO	89½	3 7 0	—
Sudan 4½% 1939-73 Av. life 27 years	FA	120	3 15 0	3 7 3
Sudan 4% 1974 Red. in part after 1950	MN	114	3 10 2	2 16 9
Tanganyika 4% Guaranteed 1951-71	FA	115	3 9 7	2 16 5
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	112	4 0 4	2 9 4
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	109	3 13 5	3 7 6
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	102xd	3 13 6	3 11 3
Canada 4% 1953-58	MS	112	3 11 5	3 2 4
*Natal 3% 1929-49	JJ	101	2 19 5	—
*New South Wales 3½% 1930-50	JJ	101	3 9 4	—
*New Zealand 3% 1945	AO	101	2 19 5	2 17 9
†Nigeria 4% 1963	AO	115	3 9 7	3 3 7
*Queensland 3½% 1950-70	JJ	101	3 9 4	3 8 4
South Africa 3½% 1953-73	JD	107	3 5 5	2 19 10
*Victoria 3½% 1929-49	AO	100	3 10 0	3 10 0
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	97	3 1 10	—
*Croydon 3% 1940-60	AO	100	3 0 0	3 0 0
Essex County 3½% 1952-72	JD	107	3 5 5	2 19 10
Leeds 3% 1927 or after	JJ	96	3 2 6	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	107	3 5 5	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	87	2 17 6	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	97	3 1 10	—
Manchester 3% 1941 or after	FA	96	3 2 6	—
*Metropolitan Consd. 2½% 1920-49	MJSD	101	2 9 6	—
Metropolitan Water Board 3% "A" 1963-2003	AO	100	3 0 0	3 0 0
Do. do. 3% "B" 1934-2003	MS	99½	3 0 4	3 0 4
Do. do. 3% "E" 1953-73	JJ	102	2 18 10	2 17 2
Middlesex County Council 4% 1952-72	MN	113	3 10 10	3 0 2
† Do. do. 4½% 1950-70	MN	116	3 17 7	3 2 11
Nottingham 3% Irredeemable	MN	95	3 3 2	—
Sheffield Corp. 3½% 1968	JJ	108	3 4 10	3 2 2
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	115	3 9 7	—
Gt. Western Rly. 4½% Debenture	JJ	126½	3 11 2	—
Gt. Western Rly. 5% Debenture	JJ	137½	3 12 9	—
Gt. Western Rly. 5% Rent Charge	FA	134½	3 14 4	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	130½	3 16 8	—
Gt. Western Rly. 5% Preference	MA	119½	4 3 8	—
Southern Rly. 4% Debenture	JJ	114½	3 9 10	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	112½	3 11 1	3 5 11
Southern Rly. 5% Guaranteed	MA	129½	3 17 3	—
Southern Rly. 5% Preference	MA	120½	4 3 0	—

*Not available to Trustees over par. †Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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